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4 July 2014

Safe Night Out Bill 2014
Submission 016

Mr Brook Hastie
Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

c/- lacsc@parliament.qld.gov.au

Dear Mr Hastie

Re: Safe Night Out Legislation Amendment Bill 2014

Thank you for the opportunity to comment on the aforementioned Amendment Bill.

Following extensive consultation with late night traders and other community stakeholders, please find following a summary of the key issues that have been raised in relation to the Amendment Bill.

Overall there is enormous support for the Safe Night Out Strategy and the State Government's commitment to addressing alcohol related violence and the culture of drinking through the collaborative development and implementation of a suite of sustainable strategies.

When the Draft Strategy was released there was widespread acknowledgement that the devil would be in the detail. The Safe Night Out Legislation Amendment Bill 2014 has provided that detail much of which reflects the feedback received about the Draft Strategy.

There are, nevertheless, some important practical issues that need to be addressed prior to the Amendment Bill being passed into legislation as they will have a significant impact on its implementation. The attached submission attempts to outline these issues as succinctly as possible.

Cabarets Queensland understands that the implementation of this hallmark strategy, with all the goodwill in the world, will not be an easy task.

We look forward to working collaboratively with the State Government, our industry partners and other business and community stakeholders on the implementation of the strategy and ensuring the sustainability of our entertainment precincts and making them even safer and more enjoyable for locals and visitors alike.

Yours sincerely

Sarosh Mehta
Chairman

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Safe Night Out Legislation Amendment Bill 2014

Submission to the Legal Affairs and Community Safety Committee

Cabarets Queensland, 4 July 2014

Overview

Cabarets Queensland congratulates the Queensland Government on the development of the Safe Night Out Strategy and drafting of the Safe Night Out Legislation Amendment Bill 2014. In particular, it acknowledges the government's commitment to widespread consultation and the collaborative development of a suite of sustainable strategies in preference to ones that are simply politically expedient.

Cabarets Queensland supports the Safe Night Out Strategy and the overall intent of the Amendment Bill which is needed to facilitate the implementation of the strategy.

For the first time ever, a common sense approach is being taken in response to the small percentage of patrons who think they are above the law. It will make serious and repeat offenders accountable for their behaviour.

Cabarets Queensland believes that the night-time economy in the State is safe and the implementation of the Safe Night Out Strategy will only make it safer, and should be supported by liquor industry and all other related stakeholders.

Summary of key points

Cabarets Queensland would like to place on record its support for hallmark strengthening of and changes to the Amendment Bill with respect to the following important issues:

- Creation of Safe Night Out Precincts
- Establishment of Safe Night Out Precinct Boards
- Removing the 'excuse' of being intoxicated
- Extending the definition of 'unduly intoxicated'
- Strengthening police powers
- Increasing penalties for assaults and other forms of unacceptable behaviour in and around licensed premises
- Strengthening banning orders
- ID scanning

There are, nevertheless, some important practical issues that need to be addressed prior to the Amendment Bill being passed into legislation as they will have a significant impact on its implementation.

Cabarets Queensland would like to draw to the Committee's attention the following problematic aspects of the legislation:

- Commencement time for ID scanning
- Responsibilities of licensees for providing a safe environment and preserving amenity
- Mystery shopper
- Increased penalties for assault on public officers

These are outlined in more detail below with recommendations for how these issues might be effectively addressed.

Some additional comments are also made with regards to Safe Night Out Precincts and the composition of the Boards.

ID scanning

The Amendment Bill requires that ID scanning commences at 8pm at all licensed premises authorised to trade after midnight (Section 173EH).

Cabarets Queensland supports the introduction of ID scanning for all late trading premises. Many have already adopted this technology voluntarily and have been using it for up to a decade. Premises that use ID scanners have reported no change in patronage. Patrons, in particular female patrons, appreciate the additional level of security and police have the additional benefit of being able to combine the use of CCTV images and quick identification via ID scanner data in the event of an incident.

The Safe Night Out Strategy provides an opportunity to introduce consistency in practice across all late trading premises and it does that by proposing the introduction of ID scanners for all these premises.

There have been some concerns expressed about the introduction of ID scanners. Cabarets Queensland believes that these concerns are from often inexperienced licensees who do not understand the benefit of the use of scanners, and others who do not understand that the Safe Night Out Strategy comprises a suite of strategies of which ID scanners are only one component.

Cabarets Queensland does, however, agree with one of the main concerns expressed about ID scanners and that relates to the start time for scanning. The Amendment Bill requires that all premises authorised to trade after midnight must commence ID scanning at 8pm. This is inconsistent with the current requirements placed on late trading premises.

For example, all premises trading after midnight are required to have security providers commencing at 11pm. Apart from generally ensuring a safe environment is maintained, one of the main duties of security is to check IDs as patrons are entering the premises. It is difficult to understand why ID scanning would commence any earlier.

Many late night traders operate restaurants as well as bars on the same premises. It would be impractical and insulting to require restaurant patrons (e.g. business associates, couples, family groups and friends having a meal to celebrate a birthday or other special occasion) to have their ID scanned because they chose to eat at a restaurant located on a premises that is authorised to trade after midnight.

Additionally, mandating the proposed ID scanning regime from the relatively early time of 8.00 pm will be commercially harmful for some businesses. It will result in an expectation that cannot be met without disproportionate expense and which is not justified by the risk profile of licensed trading at that early time of the evening.

Cabarets Queensland believes that ID scanning should be required on all premises authorised to trade after midnight and should commence at 11pm at the same time as other current late trading security provisions.

It has been suggested by some commentators that patrons who wish to 'beat the system' will seek to enter premises prior to 11pm simply to avoid ID scanning. The experience of Cabarets Queensland, and those premises that already utilise scanning technology, is that this is highly unlikely. Having said that, if the ID scanning technology is developed well, there should be the capacity for an approved operator to do a sweep of the premises with a hand held unit undertaking random ID checking if required.

Cabarets Queensland also acknowledges that some patrons, particularly those who have been banned from venues in Safe Night Out Precincts, may chose to attend licensed premises outside of the precincts that also trade after midnight. The Amendment Bill made provision for OLGR to require such premises to adopt Safe Night Out strategies such as ID scanning. Cabarets Queensland is of the view that such premises may wish to initiate the implementation of such strategies voluntarily and provision should be made within the legislation to allow for this proactive response by licensed premises outside of designated Safe Night Out Precincts.

Responsibilities of licensees for providing a safe environment and preserving amenity

The extent to which a licensee is responsible for maintaining a safe environment 'in and around the relevant premises' has been a vexed question for many years.

Under current legislation, licensees are responsible for maintaining a safe environment within the boundaries of the licensed premises. Cabarets Queensland believes that this requirement is fair and reasonable.

The inclusion of 'around' raises serious issues related to definition, practice and potential litigation.

Cabarets Queensland raises this issue, for example, because of the public liability and other insurance implications for the licensee and security providers to the premises. Simply put, security providers are not covered by insurance once they leave the entry or other designated licensed area around the premises (e.g. footpath dining area).

Many security providers are currently assisting with incidents that are across the road or further down the street from a premises at their own risk. and because They are aware that they risk possible legal action in the event that something goes wrong while they are attempting to assist with an incident, however in many cases they cannot in all conscience stand by and watch while an argument turns into an assault. In some cases, they do hold back and simply call for police assistance if required. It is a judgment call they make on a case by case basis, while under no legal obligation to put themselves at risk.

The Amendment Bill makes it mandatory that they intervene in any incident that occurs in and 'around' a licensed premises. If they do not take 'reasonable steps' to defuse the incident they may be prosecuted. The Amendment Bill does not define 'around', 'reasonable steps' nor does it indicate who determines what is or isn't 'reasonable' in the circumstances.

Without this clarity, it would not be 'reasonable' for any security provider to put themselves, their company and the licensed premises at which they are working at risk by moving away from the premises to intervene in any incident.

Mystery shopper

Cabarets Queensland believes that there are currently sufficient avenues for providing feedback to licensees about their serving practices. The collaborative working relationships that have been established between licensees and Police and OLGR Officers, through Liquor Accords and the trial Drink Safe Precincts, have facilitated open and constructive discussion about the challenges of monitoring drinking rates and strategies for improving the management of intoxicated patrons.

Cabarets Queensland believes the introduction of a 'mystery shopper' strategy is a backward step. It has the potential to be misused and misinterpreted, particularly by patrons and the general community.

Cabarets Queensland would support increased covert operations by trained police to assist with ensuring that drug are not taken or trafficked on premises. The industry has been very open about this as one of our greatest challenges. No licensee condones drug use or wants it on premises. The use of additional public monies to stamp out this scourge on our community would be welcomed by all licensees.

Increased penalties for assault on public officers

Cabarets Queensland supports the increase in penalties for aggravated serious assaults on public officers. However, Cabarets Queensland believes that the Amendment Bill does not go far enough with this provision.

The increased penalties for aggravated serious assaults on public officers should also apply in the event of a serious aggravated assault on anyone who works in a recognised official capacity within a Safe Night Out Precinct (e.g. security providers, taxi drivers and supervisors, rest and recovery community workers, Local Government staff).

The experience in trial Drink Safe Precincts has been that these people working in recognised official capacities work alongside public officers. They are often on the scene of an incident before a public officer and are the ones that request assistance from a public officer. At other times they are the ones that resolve the incident without the need for assistance from a public officer, thereby leaving scarce public resources to be available to respond to more urgent matters. The level of risk is the same, if not greater for these people working in recognised official capacities within the precincts.

Cabarets Queensland believes that assaulting anyone who works in a recognised official capacity within a Safe Night Out Precinct (e.g. security providers, taxi drivers and supervisors, rest and recovery community workers, Local Government staff) should be treated with the same significance as assaulting a public officer.

This will give a clear message that anyone in a position of authority/responsibility within a Safe Night Out Precinct must be respected at all times.

Safe Night Out Precincts and Boards

Cabarets Queensland believes that the boundaries for Safe Night Out Precincts should be determined by the respective Precinct Board in consultation with key stakeholders.

Cabarets Queensland also believes that the current wording of the Amendment Bill is not clear with regards to the requirement of a licensee to be a member of the relevant Safe Night Out Precinct association as opposed to the board.

Cabarets Queensland understands (and supports) the requirement to be that all licensees must be members of the incorporated association and some may also serve as board members (but this is not mandatory for all licensees).

Cabarets Queensland believes that the efficient and effective management of a Safe Night Out Precinct requires collaboration among all key stakeholders, and applauds the legislated requirement for the establishment of a consultative committee to advise the local board. Local Boards should be comprised of people who have a direct interest in the activities of the Safe Night Out Precinct because, by definition, its decisions will involve the setting of priorities, funding and implementation of the overall strategy within local community settings.

In this regard Cabarets Queensland believes that it is not sufficient to legislate that at least one board member is a relevant licensee. Cabarets Queensland believes that at least 25 per cent of the members of a Safe Night Out Board should be licensees. This means that in all Safe Night Out Precincts – those with a large concentration of licensed premises such as Fortitude Valley and those with a lesser concentration such as Caxton Street – licensees will have a fair representation on the membership of the Safe Night Out Precinct Board.