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29 January 2021

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

By email: [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)

Dear Secretary,

### **Response to the Liquor (Artisan Liquor) Amendment Bill 2020**

Thank you for accepting our submission to the Liquor (Artisan) Liquor Amendment Bill 2020.

The Independent Brewers Association, and our Queensland members wish to commend the work undertaken by the Department of State Development and remain positive about the potential impact a properly implemented Artisan Liquor License will provide to the industry.

Queensland brewers in were instrumental in the development of the original proposal for a new legislative framework and were satisfied with the outcomes of that work (see Attachment 1 – showing original proposal endorsed by the industry and the changes made subsequently by other stakeholders).

We were confident that if legislation was introduced reflecting this framework, it would satisfy the “need to simplify the liquor licensing process and create market access opportunities for artisan liquor producers as stated in the Inquiry Overview.

Subsequent to that framework being finalised, it was presented to other stakeholders for comment. While much of the original framework was retained, several critical components were subsequently amended and as a result we now consider these amendments to be a retrograde step and go some way to defeating the intention of simplifying processes, creating better market access and ensuring the continued growth of these industries.



We therefore ask that the Legal Affairs and Safety Committee consider, in their final deliberations this correspondence as we are they stakeholders for which this legislation is being amended.

Following are the four main concerns we would like to present to the Committee for consideration:

## **1. Promotional Events/CPEP**

The majority of craft breweries and distilleries do not have the opportunity to market their product in national bottle shops and hotels which is to our detriment given those opportunities provide a cost effective mechanism for promotion of their products.

The original Craft Beer Permit drafted by the Office of Liquor and Gaming Regulation (OLGR) was legislated despite advice from the Craft Beer Industry of Australia (CBIA are the predecessor of the IBA) that the requirements were unworkable (see Attachment 2). As a result, the permit was very seldom used by the industry.

The new revised permit system, again proposed by OLGR, continues to be flawed and will not provide the level of access suggested by the brief.

The industry's primary concern is that the use of the permit is limited to "promotional events". The definition of "promotional events" under Section 4 of the *Liquor Act* reads: '*promotional event* means an event held primarily for the purpose of promoting produce from a *particular region* or the *hospitality industry*' and examples provided cover either farmers' market-type events or trade/craft beer festivals.

All these are excellent opportunities to gain market access however, they are too limiting. An example of this is the recent request from the Noosa Triathlon for Heads of Noosa Brewery to sponsor the event and sell their beers there. The organisers approached the brewery because they believed it had strong brand alignment and a great opportunity to support local producers.

Unfortunately, a triathlon, although promoting healthy lifestyle, does not fit in the definition of a "promotional event". Similarly, a brewery could not participate in a local music festival, multi-cultural event or boat show under this permit.

We note that the *Liquor Act* under Section 11A "Exemption for the sale of liquor at fundraising events", provides far more capacity for a non-alcohol-related business e.g. a school fete, to sell beer for a longer period of time (7am-midnight) without restrictions on sample size, and without the requirement to hold RSA qualifications.



If unqualified, non-commercial groups can run a bar without restrictions, we believe that artisanal liquor producers, controlled by OLGR and fully implementing mandatory RSA requirements should be able to run a bar at a public event.

Our suggested solution is to follow options available through the *Wine Act* as it provides a simple permit structure that would be acceptable to the industry. Section 32 of that Act states that the “purpose of the permit is to promote a particular winery or region”.

It does not limit the promotion of wine to any specific type of event therefore the *Artisan Liquor Producers Permit* should reflect this flexibility and could be implemented via a simple event permit, which is not limited by existing and dated definitions.

We therefore ask that the definition be revised to: “***promotional event*** means an event held primarily for the purpose of promoting produce from a ***particular region, artisanal liquor producer*** or the ***hospitality industry***”; or (preferably) simply remove the definition altogether to mirror the guidance set out in the *Wine Act*.

Such an amendment allows for a wide range of activities and future proofs the Act so the industry can simply submit a request to OLGR to attend an event. As always, the overriding legislation on all such events would still be *Responsible Service of Alcohol* and the OLGR retains the powers to determine the suitability of each application and inspect any event at any time.

We note that the OLGR proposes that a *Commercial Public Event Permit* is the solution for all other events that do not fall under the promotional event classification. Using the CPEP, the OLGR are trying to apply an existing permit scheme across activities that it was not designed for. Section 103B limits sales under a CPEP to consumption on the premises only (no takeaways) and that only one license or permit can apply to a premises (S58(2)).

A CPEP requires a function to be organised by a third party and is cost prohibitive for a single day event at \$723 per permit which is completely cost prohibitive for a small business and certainly not the intention to support our industry as outlined in the **Queensland Craft Brewing Strategy**.

Using a CPEP at a street festival, for instance, prevents a producer from selling takeaway product which is allowed under the promotional event permit. A CPEP only allows one license to apply in any space (s58(2)&(3)). So, a wine maker must be set up in a separate and clearly designated space apart from a brewery not allowing a common area where our products are all sold together.

A CPEP also does not fill the gaps left by a promotional event permit, it sits at the other extreme of permits and events, designed for large scale public activities so the capacity





of our industry to participate in local events is severely limited by the regulator's insistence on using historical, flawed license arrangements.

We note that if this Artisanal Liquor Producers permit is amended as we propose, there is no need for an additional CPEP Clause. Under the revised event permit, all events would be submitted to OLGR for consideration, irrespective of size or nature of the event.

Red-tape and cost can be reduced by having one simple Permit to be submitted to OLGR for approval.

## **2. Off-premises Consumption (takeaway)**

We believe the proposed ability to sell other Artisanal Liquor Producers products is an excellent step towards providing further market access and an opportunity to support small and growing local enterprises however the proposed prohibition on selling those producers' product as takeaways from the same venues is not logical.

Allowing artisanal producers to sell other take away provides an opportunistic, low risk option to ensure departing customers have the choice to take this product away for future consumption.

In terms of amenity and harm minimisation, there is no difference between purchasing from an existing bottle shop or a brewery/taproom. The cost of our products also do not provide for 'buy and scull' beverages.

The take-away provisions for artisan spirits, wines and other craft beers (originally shown in the Agenda Item 3) should be re-instated. Arguments against takeaways raised by other stakeholder groups are about protecting their own markets and not about improving market access and promoting growth of the artisanal liquor industry as a whole.

A conservative calculation for the total sales via artisanal producers is approximately 0.05% of total sales via bottle shops in Queensland. The effect on bottle shop chains is negligible but is significant for those small breweries and distilleries trying to reach the market, but whose production is too limited and products too expensive to be ranged in bottle shops chains.

We consider the attempts to prevent artisanal producers selling takeaways is a purposeful and anti-competitive repression of a very small group of producers.

In the interests of ensuring artisanal liquor producers do not become bottle shops and to allay fears of other stakeholders, we recommend the provision include the following, to clearly articulate our principal activity:



***The majority of sales, on premises and take-away, must be of product produced by the artisanal liquor producer under their license.***

### **3. Record Keeping**

The OLGR currently requires the submission of an annual report that is a legacy retained from many years ago when the State Government based their licensing fees on turnover.

The industry specifically requested removal of this annual return to reduce red-tape and unnecessary administrative burden however the OLGR are now proposing additional, onerous reporting that we feel could be addressed via our detailed volume reporting to the ATO to determine our annual excise payments.

As such, all information required by OLGR for the purposes of this license is already prepared and readily available. We recommend the legislation be amended to simply request the submission of copies of our excise returns, where OLGR believe a producer may not be complying with the legislation. We ask that the Committee does not act to further entrench red-tape, duplicate unnecessary reporting, and impose a further cost on the industry.

We also note that the penalty for these administrative record keeping obligations is set at 350 penalty units, but by comparison only 250 penalty units applies for selling Liquor to a minor (s156(3)(a)). This seems to be an unreasonable reflection of priorities by OLGR.

We request Clause 30 of the Bill be amended to entirely omit s217 from the *Liquor Act* and s50-52 of the *Wine Industry Act* and any related provisions.

### **4. Contract/multi-site Brewing**

The proposed legislation does not reflect current operating realities within the industry.

Current practices see contract brewers who do not own their own equipment brew for multiple breweries on their equipment. These contractors are engaged by a brewery to make a batch of beer (very regularly done during start-up phase) or because of capacity or space limitations are now brewing over 2 or more sites.

The definition of "licensee's liquor" therefore needs to be amended to include provisions for product made by an artisanal liquor producer under contract or under direction of the licensee at a premise other than the licensed premises.

Historically, the OLGR has approved a single company to produce beer at multiple sites under the same license. In 2020, during a period when the industry did not need further administrative burdens, the OLGR changed their interpretation of the Act and determined



that for all future multi-site breweries, separate licenses must be obtained for each site and record keeping and fees needed to be completed for each licence.

This gave rise to a situation where a multi-site brewery could not sell the beer that was produced at one site at the taproom of the other site by the same company, same brewers, same recipes, but no longer allowed to sell it at both sites. This seems to be another level of regulatory burden that affects the productivity and profitability of small businesses in Queensland.

We therefore request the committee address the realities of consumer behaviour/demands and a rapidly growing, successful industry by allowing them to continue to operate as they have been, without further administrative and financial burden imposed due a lack of understanding.

In April 2011, the CBIA sought a permit scheme to match that held by the *Wine Industry Act* (see attached), however, the permit system proposed by the regulator was accepted instead. Almost a decade later, the regulator is once again proposing a permit system to fix the failed system they originally proposed, rather than responding to the realities of an industry that has moved faster than the regulator's ability to change. Therefore, we strongly suggest the Committee consider the advice now to avoid further changes in the future. The industry asks for very little other than an Artisanal Producer version of s32 of the *Wine Industry Act 1994*.

We have always considered the final framework submitted to the Government as a poor compromise, with the legislation being pushed through to meet the sitting deadline of Parliament in 2020. Considering the legislation is only now going through public review, we ask the Committee reconsider the above concerns and work with us to ensure that a fully effective Bill is passed.

Anything less, and this legislation will have failed the intention originally declared by Minister Dick, to support a rapidly growing, successful part of the Queensland economy. The development of the *Queensland Craft Brewing Strategy* was in response to the fact that our state is leading in artisanal liquor production and the right legislation will ensure this trajectory continues.

If you need any further information please do not hesitate to contact David Kitchen on [REDACTED] or our General Manager, Kylie Lethbridge on [REDACTED] or [REDACTED].

Yours sincerely,



A handwritten signature in black ink, appearing to read "Peter Philip".

**PETER PHILIP**  
Chair

A handwritten signature in black ink, appearing to read "David Kitchen".

**DAVID KITCHEN**  
Board Director/  
Owner Ballistic Beer



## ATTACHMENT 1

### Commercial other – Queensland artisan liquor licence

1. Principal activity	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>Principal activity – production and sale of craft beer on a licensed premise</li> <li>Minimum production volume – <del>2,5003,000</del> litres per annum</li> <li>Maximum production volume – 5 million litres per annum</li> <li>Compliance with minimum and maximum production volumes assessed annually</li> <li>Minimum 70 per cent liquor sales of craft beer produced at the premises (in dollars)</li> <li>Compliance with principal activity assessed holistically across all sales (i.e. on-premises and takeaway)</li> <li>Note, pro-rata production thresholds will apply where a licence commences other than at the beginning of a financial year</li> </ul>	<ul style="list-style-type: none"> <li>Principal activity – production and sale of artisan spirits on a licensed premise</li> <li>Minimum production volume – <del>4,000400</del> litres per annum</li> <li>Maximum production volume – 450,000 litres per annum</li> <li>Compliance with minimum and maximum production volumes assessed annually</li> <li>Minimum 70 per cent liquor sales of artisan spirits produced at the premises (in dollars)</li> <li>Compliance with principal activity assessed holistically across all sales (i.e. on-premises and takeaway)</li> <li>Note, pro-rata production thresholds will apply where a licence commences other than at the beginning of a financial year</li> </ul>
2. Licensee Eligibility	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li><u>No more than 20% owned by a 'large brewer' (i.e. a brewer who produces more than 40 million litres of beer per annum)</u></li> <li><u>No more than 20 per cent owned by a publicly listed company (or a subsidiary of a publicly listed company)</u></li> <li>The proposed licensee, and any related body corporate of the licensee, must not hold any other licences under which more than 5 million litres of beer would be produced, in any financial year, at the licensed premises combined.</li> <li><u>Hold an appropriate excise licence from the Australian Taxation Office.</u></li> <li>Required to notify the regulator of changes in ownership</li> <li>Tracing provisions to require licensee transparency of corporate structure to ensure compliance with 20 per cent ownership and related bodies corporate requirements</li> </ul>	<ul style="list-style-type: none"> <li><u>No more than 20 per cent owned by a 'large distiller' (i.e. a distiller who produces more than 2 million litres of beer spirits per annum)</u><u>No more than 20 per cent owned by a publicly listed company (or a subsidiary of a publicly listed company)</u></li> <li>The proposed licensee, and any related body corporate of the licensee, must not hold any other licences under which more than 450,000 litres of spirits would be produced, in any financial year, at the licensed premises combined.</li> <li><u>Hold an appropriate excise licence from the Australian Taxation Office.</u></li> <li>Required to notify the regulator of changes in ownership</li> <li>Tracing provisions to require licensee transparency of corporate structure to ensure compliance with 20 per cent ownership and related bodies corporate requirements</li> </ul>

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## ATTACHMENT 1

3. On-premises consumption	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>• Sale of own product, produced on premises</li> <li>• Sale of 'other' craft beer produced under the new licence type</li> <li>• Sale of artisan spirits produced under the new licence type</li> <li>• Sale of wine produced by a licensee under the <i>Wine Industry Act 1994</i></li> <li>• Sale of 'other' craft beer or artisan spirits produced under an eligible producer/wholesaler licence (see Miscellaneous Amendments heading)</li> </ul>	<ul style="list-style-type: none"> <li>• Sale of own product, produced on premises</li> <li>• Sale of 'other' artisan spirits produced under the new licence type</li> <li>• Sale of craft beer produced under the new licence</li> <li>• Sale of wine produced by a licensee under the <i>Wine Industry Act 1994</i></li> <li>• Sale of cocktails comprising Queensland artisan liquor authorised for on-premises consumption</li> <li>• Cocktails must contain the licensee's own liquor product</li> <li>• Cocktails to be treated as the licensee's own product for the purpose of assessing whether 70 per cent of dollar sales are the licensee's own product</li> <li>• Sale of 'other' craft beer or artisan spirits produced under an eligible producer/wholesaler licence (see miscellaneous amendments heading)</li> </ul>
4. Off-premises consumption (takeaway)	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>• Sale of craft beer made on the premises</li> <li>• <del>Sale of 'other' craft beer produced under the new licence type</del></li> <li>• <del>Sale of 'other' craft beer produced under an eligible producer/wholesaler licence (see Miscellaneous Amendments heading)</del></li> <li>• Wholesale of own product</li> <li>• Permitted to take or receive orders for liquor elsewhere than at the licensed premises</li> </ul>	<ul style="list-style-type: none"> <li>• Sale of artisan spirits made on the premises</li> <li>• <del>Sale of 'other' artisan spirits produced under the new licence type</del></li> <li>• <del>Sale of 'other' artisan spirits produced under an eligible producer/wholesaler licence (see Miscellaneous Amendments heading)</del></li> <li>• Wholesale of own product</li> <li>• Permitted to take or receive orders for liquor elsewhere than at the licensed premises</li> </ul>
5. Online sales	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>• Online sales of <del>licensees</del> licensee's own product only</li> </ul>	<ul style="list-style-type: none"> <li>• Online sales of <del>licensees</del> licensee's own product only</li> </ul>

## ATTACHMENT 1

6. Trading hours	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>• Ordinary trading hours of 10am to midnight for on premises sales</li> <li>• Availability of extended trading hours from midnight to 1am with approval for on premises sales</li> <li>• Sale of craft beer for consumption off the premises, other than the sale of craft beer by wholesale, between 10am and 10pm</li> <li>• Availability of extended trading hours (including for takeaway sales) from 9am to 10am with approval, if there is a demonstrated community need</li> <li>• Wholesale to a person – the trading hours of the premises under the <i>Trading (Allowable Hours) Act 1990</i> (Trading Hours Act)</li> </ul>	<ul style="list-style-type: none"> <li>• Ordinary trading hours of 10am to midnight for on premises sales</li> <li>• Availability of extended trading hours from midnight to 1am with approval for on premises sales</li> <li>• Sale of artisan spirits for consumption off the premises, other than the sale of artisan spirits by wholesale, between 10am and 10pm</li> <li>• Availability of extended trading hours (including for takeaway sales) from 9am to 10am with approval, if there is a demonstrated community need</li> <li>• Wholesale to a person – the trading hours of the premises under the <i>Trading (Allowable Hours) Act 1990</i> (Trading Hours Act)</li> </ul>

  

7. Promotional events	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>• Authorised to <u>sell</u> samples of their own product for on-premises consumption and takeaways for off-premises consumption if licence subject to a relevant licence condition</li> <li>• Sales of takeaway liquor at the event limited to 9 litres per person</li> <li>• Authorised to take orders for any amount at promotional events</li> <li>• Volume of individual beer samples to be prescribed by the <i>Liquor Regulation 2002</i></li> <li>• 1500mL sample size limit</li> <li>• The craft beer producer permit will be available to licensees under the new licence type who do not wish to apply for an enduring approval to attend promotional events</li> </ul>	<ul style="list-style-type: none"> <li>• Authorised to <u>sell</u> samples of their own product for on-premises consumption and takeaways for off-premises consumption if licence subject to a relevant licence condition</li> <li>• Sales of takeaway liquor at the event limited to 1.5 litres per person</li> <li>• Authorised to take orders for any amount at promotional events</li> <li>• Volume of individual spirit samples to be prescribed by the <i>Liquor Regulation 2002</i></li> <li>• 150mL sample size limit – sample size refers to the size of the spirit sample only and does not include any added non-alcoholic mixer</li> <li>• An artisan spirits producer permit will be available to licensees under the new licence type who do not wish to apply for an enduring approval to attend promotional events</li> </ul>

## ATTACHMENT 1

8. Harm-minimisation measures	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>No venue capacity cap</li> <li>All licensees required to undertake a Risk-Assessed Management Plan</li> <li>All licensees required to undertake a Community Impact Statement (however this requirement may be waived for licensees transitioning to the new licence type who already have on-premises consumption)</li> <li>All licensees required to adhere to existing advertising requirements under the Liquor Act (noting the requirement can be waived in special circumstances)</li> </ul>	<ul style="list-style-type: none"> <li>No venue capacity cap</li> <li>All licensees required to undertake a Risk-Assessed Management Plan</li> <li>All licensees required to undertake a Community Impact Statement (however this requirement may be waived for licensees transitioning to the new licence type who already have on-premises consumption)</li> <li>All licensees required to adhere to existing advertising requirements under the Liquor Act (noting the requirement can be waived in special circumstances)</li> </ul>

  

9. Commercial Public Event Permit (CPEP)	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>Eligibility to apply for CPEP</li> <li>Sales at public events to be limited to the licensee's own product</li> </ul>	<ul style="list-style-type: none"> <li>Eligibility to apply for CPEP</li> <li>Sales at public events to be limited to the licensee's own product</li> </ul>

  

10. Proposed Fees	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>Base annual fee of \$1,050 (new)</li> <li>Application fee of \$1,420 (new)</li> <li>Promotional event permit fee of \$71.65 per day (new)</li> <li>CPEP fee of \$710.20 for the first day of the public event, plus an additional fee of \$71.65 for each additional day (existing)</li> <li>Licence condition fee of \$110.60 (existing)</li> <li>Extended trading hours approval fee of \$213.70 (existing)</li> <li>Risk criterion fees for extended trading hours approval will apply (existing): <ul style="list-style-type: none"> <li>for extended trading hours approval from midnight to 1am – \$3,556, or \$2,667 for weekends only</li> <li>for extended trading hours approval from 9am to 10am – \$710.20, or \$534.30 for weekends only</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Base annual fee of \$1,050 (new)</li> <li>Application fee of \$1,420 (new)</li> <li>Promotional event permit fee of \$71.65 per day (new)</li> <li>CPEP fee of \$710.20 for the first day of the public event, plus an additional fee of \$71.65 for each additional day (existing)</li> <li>Licence condition fee of \$110.60 (existing)</li> <li>Extended trading hours approval fee of \$213.70 (existing)</li> <li>Risk criterion fees for extended trading hours approval will apply (existing): <ul style="list-style-type: none"> <li>for extended trading hours approval from midnight to 1am – \$3,556, or \$2,667 for weekends only</li> <li>for extended trading hours approval from 9am to 10am – \$710.20, or \$534.30 for weekends only</li> </ul> </li> </ul>

## ATTACHMENT 1

11. Record keeping requirements	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>Record keeping requirements to be specified in the <i>Liquor Regulation 2002</i></li> <li>Transaction records for each sale of liquor by the licensee which includes the amount, sale price and type of liquor (including whether it is the licensee's own liquor);</li> <li>A summary (in dollars) of the total sales of the licensee's own liquor product and the total sales of liquor not produced by the licensee on the licensed premises</li> <li>Records demonstrating production volume for each financial year</li> <li>Records kept in a way that allows them to be conveniently and properly audited.</li> <li>Annual return to be lodged, outlining: <ul style="list-style-type: none"> <li>production volume for the previous year;</li> <li>the total sales (in dollars) of the licensee's own liquor product and the total sales of liquor not produced by the licensee on the licensed premises; and</li> <li>the current ownership details of the licensee (if a company)</li> </ul> </li> <li>Annual return requirement to commence for 2021-22 licence period.</li> </ul>	<ul style="list-style-type: none"> <li>Record keeping requirements to be specified in the <i>Liquor Regulation 2002</i></li> <li>Transaction records for each sale of liquor by the licensee which includes the amount, sale price and type of liquor (including whether it is the licensee's own liquor);</li> <li>A summary (in dollars) of the total sales of the licensee's own liquor product and the total sales of liquor not produced by the licensee on the licensed premises</li> <li>Records demonstrating production volume for each financial year</li> <li>Records kept in a way that allows them to be conveniently and properly audited.</li> <li>Annual return to be lodged, outlining: <ul style="list-style-type: none"> <li>production volume for the previous year;</li> <li>the total sales (in dollars) of the licensee's own liquor product and the total sales of liquor not produced by the licensee on the licensed premises; and</li> <li>the current ownership details of the licensee (if a company)</li> </ul> </li> <li>Annual return requirement to commence for 2021-22 licence period.</li> </ul>

  

12. Transitional provisions	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>Transition to new licence type optional</li> <li>Application process required</li> <li>Streamlined transitional arrangements to occur administratively</li> </ul>	<ul style="list-style-type: none"> <li>Transition to new licence type optional</li> <li>Application process required</li> <li>Streamlined transitional arrangements to occur administratively</li> </ul>

  

13. Penalties	
<i>Craft brewers</i>	<i>Artisanal distillers</i>
<ul style="list-style-type: none"> <li>Failure to comply with principal activity may result in disciplinary action, leading to cancellation of the licence.</li> <li>Standard penalties for unauthorised trading and breach of conditions will apply</li> <li>Penalties in relation to unauthorised service at promotional events will align with existing penalties</li> <li>Penalties in relation to maintaining financial records will align with existing penalties</li> </ul>	<ul style="list-style-type: none"> <li>Failure to comply with principal activity may result in disciplinary action, leading to cancellation of the licence.</li> <li>Standard penalties for unauthorised trading and breach of conditions will apply</li> <li>Penalties in relation to unauthorised service at promotional events will align with existing penalties</li> <li>Penalties in relation to maintaining financial records will align with existing penalties</li> </ul>



## ATTACHMENT 1

### 14. Miscellaneous amendments

- Producer/wholesaler licensees will be eligible to apply for a condition specifying that they are a genuine craft brewer or artisan distiller and can sell their product to a licensee under the artisanal liquor producer licence. Note, as a transitional arrangement, all producer/wholesaler licensees with an existing craft beer condition can apply for the new condition at no cost.
- The craft beer producer permit will remain available to producer/wholesaler licensees who meet eligibility requirements
- An artisan spirits producer permit will be introduced for producer/wholesaler licensees who meet eligibility requirements
- A condition to allow for producer/wholesaler licensees that are craft distillers, to sell and supply liquor at promotional events, will be included.



Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street, Brisbane Qld 4000

14 July 2015

## **Liquor & Fair Trading Legislation (Red Tape Reduction) Amendment Bill 2015**

The CBIA appreciates this opportunity to provide further comment on the Amendment Bill. We note that the Australian Craft Beer Industry Association previously provided comment to OLGR on the draft proposal and that subsequent amendments picked up on of the core intent behind our submission but retained the flawed license conditions approach we recommended against. We are grateful for the incorporation of parts of our initial submissions but the current mixed approach creates a number of serious issues for our members that are likely to see almost zero industry uptake of the license conditions approach, if implemented as drafted. The policy intent will not be achieved in the current form of the Amendment Bill and will unfortunately serve largely to pass on red tape to brewers.

### **Current Situation**

In Queensland, craft breweries cannot sell or supply their beer away from their licensed production premises – there is simply no ability to apply for a suitable permit for a market, festival or similar event. The only limited scope to expose craft beer products for sale direct to consumers away from the main premises relies on using a host venue such as a Convention Centre or licensed venue. Access to these is often limited for smaller players.

The Amendment Bill aims to provide an opportunity for craft brewers to participate and promote their products at a broader selection of events, however there are three key issues for craft brewers:

1. The Bill proposes adding a broad condition to a craft brewer's licence to enable participation at events outside of the brewery, without the need to apply for approval each time. The Bill includes a 'primary purpose' test for a Promotional Event that shifts the risk of determining compliance to the craft brewer – with significant consequences for getting it wrong! The proposal in its current form in clause 8 provides a narrow definition of a promotional event that is not necessary if the permit scheme we initially sought and recommended is preferred and adopted. Trading hours will also prove problematic because standard trading hours of licensed premises if conditioned do not commence until 10am and these hours may not suit, for example, an early morning market environment.
2. The stipulation (in proposed s74A(2)(b)(ii) and elsewhere) that brewers cannot charge for samples and/or beers for consumption on site means these activities will largely be uneconomical for brewers and the desired opportunity otherwise created by the Amendment Bill will be foregone. Breweries must cover the cost of staff (events are often after hours and sometimes go for several days), the cost of logistics, stock and attending (stall fees can be astronomical at food and wine events), without any way to recoup even a portion of the costs. It also limits a brewer's ability to refuse a sample to people who are clearly not interested in the brewer's product, but rather just want a free beer sample.
3. The requirement for craft brewers to potentially keep track of how many samples a visitor to an event has consumed (and risk significant penalties for getting it wrong) presents a risk that outweighs participation. Responsible service and related requirements already bind licence (or permit holders) in this regard.





### Proposed Alternative to meet the policy intent

1. The CBIA supports the entire removal of the license condition and related license authority provisions which are too restrictive and complicated to support any likely uptake by industry. Even the red tape of seeking "consent" from the event organiser is surprisingly complicated at times; consent is surely implied by the event organiser inviting a craft brewery to occupy a stall. The proposals requiring consent are contrary to similar red tape reduction measures which removed owners' consent requirements for low risk matters. The license condition scheme would only apply to Queensland breweries and creates one rule for some breweries and another rule for others. The model proposed creates substantial confusion when both local and interstate breweries participate in a single event and it will be impossible to achieve compliance with differing approvals and conditions.
2. Alternatively we propose one single permit based model for both Queensland and interstate brewers – in identical format to the current permit model under the Wine Act, which has been in operation for a great number of years, but expanded to be available to interstate craft brewers.
3. Any permit scheme must enable brewers to charge for their beers for consumption onsite subject to all other probity requirements regarding responsible service and appropriate conditions imposed by the Commissioner.

### How would it work?

Breweries (whether Queensland or interstate) could apply for permits on an event by event basis, giving the Commissioner the ability to:

- Confirm the applicant is a craft brewer
- Determine whether the event is appropriate
- Impose any further conditions deemed necessary in light of the location / nature of the event

The CBIA seeks the removal from the Amendment Bill of all provisions relating to licence conditions. These provisions are unnecessary and confusing and shift the 'red tape' burden and risk directly onto the licensee. Only the permit scheme supports all Australian Craft Brewers and the permit scheme alone should be adopted over a confusing mix of both options. Accordingly the CBIA seeks the following amendments to the Bill:

- Clauses 17-20 (License Conditions and related authority) should be completely omitted
- Clause 23 should be amended to remove the requirement for free samples and allow sale of craft beer for consumption on the permit premises.
- Proposed section 103ZA in Clause 23 should be deleted.
- Clause 31 should be deleted.
- Clause 43 MUST be deleted, it imposes a 350 penalty unit offence (\$38,000+) for an admin failure that serves no purpose.
- Clause 45 can be deleted as it is not required when clauses 17-20 are removed.

The CBIA would welcome any opportunity to address the detail of these matters at the proposed committee public hearings.

Yours sincerely

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