



Speech by

**Hon. R. GIBBS**

**MEMBER FOR BUNDAMBA**

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Hansard 25 May 1999

**LIQUOR (EVICTIONS, UNLICENSED SALES AND OTHER MATTERS) AMENDMENT BILL**

**Hon. R. J. GIBBS** (Bundamba—ALP) (Minister for Tourism, Sport and Racing) (12.31 p.m.): I move—

"That the Bill be now read a second time."

The amendments sought in this Bill are to clarify and strengthen the existing provisions of the Liquor Act dealing with the eviction of patrons from licensed premises and the unlicensed sale of liquor. For some time now licensees have considered it their right to vet the entry of patrons to their establishments and to check behaviour by removing problem patrons to provide a safe environment for all. However, recent court decisions have cast some doubt on these provisions and have effectively removed the rights of licensees to control their premises.

In 1992 I introduced a new Liquor Act which allowed licensees greater flexibility in structuring and promoting their business to target a particular market sector. Since that time, diversity has flourished and hospitality operators are servicing a more sophisticated and demanding local market and are also able to quickly respond to international trends for tourists. Coupled with this new flexibility came greater social obligations in relation to the responsible service of alcohol. Licensees and their staff were asked to minimise the potential harms from alcohol sales by considering their management and service practices and to ensure a safe environment for patrons. In providing this safe environment, the licensee must be able to monitor and check patron behaviour. Prohibiting entry to people who may be known troublemakers, intoxicated, underage or disorderly is not only good business practice but also safeguards the wellbeing of all patrons. Additionally, the licensee should be free to set the tone of their venue, for example, by enforcing minimum dress standards and therefore cater for a particular market niche.

Equally as important as prohibiting entry is the ability to remove patrons who are creating a disturbance, disorderly or for some other lawful reason. We have all read about the increasing number of civil suits where licensees are being sued for not protecting their patrons. This amendment Bill will empower licensees and their employees to do just that. It is not good enough to say, "Let the police deal with it." Consider our country licensees. The local officer in charge of police may be hours away. The licensee cannot just give a fellow another drink and ask him to sit quietly and wait for the police to eject him from the hotel. This amendment contemplates the possible harm these circumstances can cause to the problem patron and to other patrons.

The amendment Bill also seeks to increase the penalties relating to the unlicensed sale of liquor. The illegal sale of liquor brings with it the associated problems of unrestrained and unsupervised public consumption of liquor, including public drunkenness, violence and vandalism. Unlicensed operators have the propensity to cause significant harm within the community, without any of the usual social or legal obligations. Legitimate operators have to pay for the same privileges, obtain town planning approvals, run the gauntlet of public objections and provide facilities to an appropriate standard. The unlicensed operator sets up shop without consideration for the law or their surrounding community.

This amendment will also increase the penalties for sly-grogging, and I put these unscrupulous operators on notice that the fines will fit the crime and the harm that they cause. In the more remote areas of this State, sly-grogging is affecting many indigenous communities. It undermines any attempts

by local councils to enforce community laws and control liquor supplies, leading to problems of drunkenness, violence and family distress. These amendments will ensure that any sale of liquor by an unlicensed operator will result in large fines, and subsequent offences may attract a jail term in addition to a fine.

This strategy will be supported by amendments clarifying existing provisions that the owner or occupier of unlicensed premises can be pursued for knowingly allowing the sale of liquor. The owner will now be held accountable if he or she has been made aware of three convictions of persons on their premises relating to the unlicensed sale of liquor within a period of two years. After one such offence, the Act will allow the owner to terminate the tenancy of the rogue operator and thereby break their link to liability for the activity. This will ensure that owners are not knowingly gaining an income from an illegal activity without being responsible for the consequences of that activity.

To prevent the recurrence or continuance of these offences, additional powers of seizure are being proposed for investigators under the Act. The amendments will allow an investigator who has reasonable grounds for suspecting that illegal sales will continue or resume after they have left the unlicensed premises to seize property to prevent further sales. The property seized would be items related to or used to facilitate or promote the sale, such as fittings, dispensing utensils, storage, refrigeration and display units. These powers are necessary to put a stop to illegal trading, which currently resumes within hours of an investigation, at which time evidence, including all the liquor available for sale, is taken.

The court penalties to date have not been sufficient to deter the operators from restocking liquor supplies and resuming trade. The proposed penalties are intended to indicate to the courts that, regardless of whether a person is the owner, operator or employee of a business, this is a serious offence and the penalty will be a severe one. To follow through, the Bill proposes to disqualify repeat offenders from holding a liquor licence for a specified period of time. Clearly, unlicensed operators are not fit and proper persons to hold a licence and their subsequent association with legitimate businesses should be closely monitored. This amendment Bill will disqualify a person with two convictions for unlicensed sales from holding a liquor licence for a period of five years from the date of their last conviction. Disqualification for a period of 10 years will result from three or more convictions. This will ensure that irresponsible operators are left in no doubt as to their status if they attempt to later license their illegal business.

The Liquor Act encourages long-term investment and development in the tourism and hospitality industries. There is no room for fly-by-night operators who wish to trade irresponsibly and, in doing so, force legitimate businesspeople to lower their standards to compete. This amendment Bill reinforces my Government's commitment to eradicating serious threats to the health and safety of all communities and to preventing potential catalysts for criminal behaviour. I commend the Bill to the House.

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