




Speech By
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MEMBER FOR CLAYFIELD

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LIQUOR (ARTISAN LIQUOR) AMENDMENT BILL

 **Mr NICHOLLS** (Clayfield—LNP) (11.50 am): ‘Beer is proof that God loves us and wants us to be happy.’ So said Benjamin Franklin. Another favourite saying of mine is from that well-known movie star Jack Nicholson: ‘I’d rather have a full bottle in front of me than a frontal lobotomy.’ Today we take up the debate on the Liquor (Artisan Liquor) Amendment Bill 2020. The LNP will be supporting the bill, but we will highlight some of our concerns and reflect on the process that has ever so slowly led to this legislation being put before the House today.

Even a brief history of beer would be perhaps far too long a story to fit within the time limits of debate in this place, but I am going to give it a shot. According to my limited research, the world’s first fermented beverages most likely emerged alongside the development of cereal agriculture some 12,000 years ago. The earliest known alcoholic beverage is a 9,000-year-old Chinese concoction made from rice, honey and fruit—it must have been tasty—but the first barley beer was most likely born—

Mr Power: Mesopotamia.

Mr NICHOLLS: We are getting there. As always, member, if you listen to me I will illuminate you in ways you can never imagine.

Madam DEPUTY SPEAKER (Ms Bush): I remind you to direct your comments through the chair.

Mr NICHOLLS: If the member for Logan would listen to me he will learn things, as he always does when he listens to me, and realise that it is better to use his ears and his mouth in the correct proportion: listen twice, speak once.

The earliest known alcoholic beverage was a 9,000-year-old Chinese concoction made from rice, honey and fruit, as I said, but the first barley beer was most likely born in the Middle East. While people were no doubt imbibing it much earlier, hard evidence of beer production dates back about 5,000 years to the Sumerians of ancient Mesopotamia. Archaeologists have unearthed ceramic vessels from 3,500 BC still sticky with beer residue, and an ancient hymn to Ninkasi, an ode to a Sumerian goddess of beer, describes a recipe for an ancient brew made by female priestesses. There you are, member for Logan. If the member for Logan listens we will get to it and he will be satisfied.

These nutrient-rich drinks were a cornerstone of the Sumerian diet and might have been, in fact, a safer alternative to drinking water from nearby rivers and canals. Beer drinking also flourished under the Babylonian Empire, but few ancient cultures loved beer as much as the Egyptians. Workers along the Nile were often paid with an allotment of a nutritious sweet brew and everyone from the pharaohs to the peasants, and even children, drank beer as part of their everyday diet. So, member for Logan, there is hope for you.

Many of these ancient beers were flavoured with unusual additives such as mandrake, dates and olive oil, but beer as we know it would not arrive until the Middle Ages when the Christian monks and other artisans began brewing beers seasoned with hops, a new introduction to the brewing process. In fact, ancient German purity beer laws date back to the 1500s and are still in force today. With the

coming of the industrial revolution the brewing of beer changed from an artisanal effort to the industrial scale production that we see and know so well today. But now we have seen the re-emergence of artisanal-style small brewers as consumers and aficionados look for new tastes and flavours as well as the rediscovery of older styles and brews.

Having finished with the history of beer I thought I would turn to the history of distilling which, while shorter, is still lengthy. Distilling requires more than just the fermentation of grains, fruits and sugars and as a result it took longer to develop, but by about the 13th century distilling was starting to become understood. The process of taking a fermented mash and heating it to cause the evaporation of the alcohol from the watery base—because we all know that alcohol boils at a lower temperature than water—and later condensing that evaporated alcohol to form a more concentrated liquor was starting to be understood.

In fact, the first proponents of distilling were the alchemists of that time. They were not quite so interested in producing gold from lead as they were in producing a better hit from the mash. Brandy from wine was among the first of the distilled spirits, probably in northern Europe, but this was quickly followed in other parts of Europe where the spirit was distilled from the most popular and readily available source of grain grown locally, and so developed gin, whisky, schnapps and vodka. With the coming of sugar cane followed that most important of spirits—especially here in Queensland—rum.

Famously called aqua vitae, or the water of life, distilled spirits rapidly gained in popularity in the 18th century with advancements in distilling coming from Ireland and Scotland. Of course we all know the stories of moonshine and illegal stills from songs and stories of the past. With the popularity of all forms of these alcohols it did not take long for governments to see the opportunity for revenue raising and taxes on and control of the production, distribution and sale of alcohol and so here we are today debating further laws about the production and sale of alcohol by small artisanal craft brewers and distillers. I am sure many of us will have those operators in our electorates.

I have often pointed out that this government works at a very slow speed. This bill is more evidence of that claim. With one advisory council meeting a year since the implementation of the policy, the Craft Brewing Strategy, we have people such as Mr Jack Milbank of Bargarra Brewing Company in Bundaberg saying that all that is happening is the government is doing market research funded by them into opportunities for itself to generate revenue off an industry. The issue became so slow that producers despaired. In August 2020, two years after the release of the Craft Brewing Strategy, stories were running in the media with comments from the Independent Brewers Association that the strategy had run out of puff and producers, desperate to start the recovery from the lockdown, were calling on the government to get a bill into parliament to help the industry recover at no cost to the government. That bill was introduced on the last sitting day of the last parliament and subsequently lapsed. It was reintroduced late last year as the bill we are currently debating.

Now, over a year after COVID-19 swept across the world, the bill is finally being debated. At a time when the craft distillers and brewers have experienced hardship—in fact, last year a decline in sales at craft breweries Australiawide of 67 per cent was experienced—this government has finally acted. In its raft of amendments has the government actually made life easier for small businesses? Has the complexity of the legislation been reduced? Have the opportunities for this sector been improved and been improved to the extent that they could have been? The answer to that question is we do not really know. That is because there was no regulatory impact statement undertaken to give a clear understanding of the costs and benefits to both producers and the community. We are left guessing as to the total value of the improvements. We hope it will work. We hope that we will see those businesses flourish, but we do not know the cost to them of the changes. There is no clear understanding of whether the regulatory changes that have been made, including the changes to penalties, are going to outweigh the benefits of this legislation.

After wading through the explanatory notes, the bill, the committee report and quite a number of the submissions I can tell members that any sane person would need a drink. While the amendments create a new licensing category for craft brewers and distillers and expand the existing promotional event permit framework, provide authorisations for eligible producer/wholesaler licences and encourage the transition from existing classes of licence to the new artisan producer licence—and I note with a fee waiver for the current financial year in place and encouragement to do so because of the carryover of conditions—they do so in a complex and legalistic way that, while being stated to assist the artisanal industry, involve a high level of restriction and complexity.

One of the concerns raised about the new licence category is that it allows for on-premises consumption of other producer's products but not for off-premises consumption. I note that the minister addressed that in some of the comments she made a few minutes ago. The Independent Brewers

Association said that 'the proposed prohibition on selling those producers' products as takeaways from the same venues is not logical'. They also stated—

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.

And further—

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

I emphasise that that is the impression of the Independent Brewers Association in relation to limits on takeaways. While allowing consumption of another producer's product on premises, this legislation does not allow it to be taken away. I understand that there will be concerns about allowing products to be taken away, but again we do not really know the limit of that. One has to wonder whether, in terms of boutique products sold in limited amounts from small producers, the impact would be severe.

There are concerns regarding contract and multisite brewing. Again the Independent Brewers Association, the body that represents artisanal brewers, commented on the practise whereby contract brewers who do not own their own equipment brew on the equipment of other brewers. Therefore, the definition of 'licensee's liquor' needs to be amended to include provisions for product made by an artisanal liquor producer under contract or under direction of the licensee at premises other than their own licensed premise. The issue that they raise involves a brewer going to someone else's brew house to make their brew.

One issue of increasing concern relates to the bill's requirement for annual data return requirements to demonstrate continued eligibility for an artisan producer licence. No-one is suggesting that there should not be a reporting regime of sorts to ensure that the licence category is appropriately held by artisanal producers who are not otherwise major producers. However, the producers already provide that information as part of their Commonwealth excise obligations so the requirement to fill in yet another form with exactly the same information would seem to be an excess of red tape and bureaucracy. The question has to be asked: why duplicate an existing reporting mechanism that the department itself, in answer to a question as outlined in the committee report, acknowledges is easily obtained from the licensee's Commonwealth excise return? It seems to be the case that the department is saying to the licensee, 'You must fill in another piece of paper to satisfy our needs rather than simply and perhaps more easily forwarding a copy of the excise return you already have to send to the Commonwealth government in order to meet your obligations.'

According to the IBA, there are flaws in relation to the definition of 'promotional events' and the issue of the ability to support events such as farmers' markets or producers' markets has also been raised. In the committee report the Noosa Triathlon was given as an example of such an event. A craft brewer was invited to sponsor the event and provide their products, but was unable to do so and would still be unable to do so under this particular requirement because it limits the ability to sell small amounts of alcohol at promotional events, farmers' markets, craft brewing display shows and all those sorts of things. This is an area where more work needs to be done. Many local community events would like to be supported by their local craft brewers. I think that local neighbourhood fairs, street festivals and community events would appreciate being able to do that and the brewers would also appreciate and benefit from the ability to do that in a less restrictive way than is being proposed here. More work can be done there and I am not convinced that the department's response is a proper policy response.

Having listened to the brewers and the distillers, I think it is also important to outline the concerns about harm minimisation that have been raised by the Queensland Coalition for Action on Alcohol. The QCAA expressed caution about waiving the licence application fees for licensees who transition before 30 June 2021. While there is no doubt that this is a legitimate concern held by that organisation, I think the evidence is clear that the harm coming from microbreweries and small distillers is minimal. I would argue that forgoing the licence fee will not have a significant impact on the public health measures that would otherwise come from it. These things are always a question of balance. In my view, the balance has fallen on the right side in terms of waiving those fees, particularly given the trying conditions of the past 15 months.

Another major issue, which as the minister has said involves a far greater policy discussion, relates to the suggestion that artisan producers are able to sell to independent grocers to resell to the public. Of course, this engages a decades-long discussion in relation to what happens here in Queensland versus what might happen in other states. At the moment it is hard to say that what happens in Queensland unreasonably restricts the sale of liquor, that it is not available widely and that it cannot be obtained according to law relatively easily by those who wish to do so. Having said that, the department's answer to many of these complaints was that the suggestions were not part of the bill

and the department would not comment any further. I counted at least three occasions when that response was given to the committee in written answers to the submissions made by the IBA and others. If members want to check that they can look at pages 6, 7 and 14 of the committee report, which accurately reflects those statements. The statements are, firstly—

The Department considers the submitter's comments to be outside the scope of the Bill and will not make further comment.

Secondly—

The Department therefore considers the comments made by the submitter to be outside the scope of the Bill and cannot make further comment.

On page 14, for the third time, the department stated—

The Department considers the comments made by the submitter about the definition of promotional events fall outside the scope of the Bill.

Certainly those are answers but they are not very good answers. A department that has spent the better part of two years working on strategies and that has devised a bill surely would be able to come up with better answers than simply saying, 'They're not in the bill and therefore we don't consider we have to answer them.' A proper policy response would certainly enlighten the IBA as to the reasons why the changes that they have sought—and which apparently were part of the strategy agreed to early on in the piece—were not agreed to. If we are going to support, and say we support, the independent brewers and distillers, the artisanal producers, we should at least say why some of the things that they are asking for will not be permitted and why they do not fall within the scope of the bill.

Surely a department that had spent so long devising a bill would have had a better response. The director-general's letters to the committee, including the schedules that he attaches, do not provide that clarity. In fact, in a tacit acknowledgement of those concerns, during the committee hearing on 16 December 2020 departmental officers advised that after the passage of the bill there will be ongoing consultation with the industry 'to iron out any implementation issues or any further considerations that those industries wish to put to government'. However, they already have put them to the government. They did that in the submission process and, to be frank, the answer they received was unresponsive. It was a stonewall. It was, 'We don't not want to discuss this further; this is the bill that we're putting forward.'

They were raised in March 2020 when the original program was put forward. They were raised in the public hearings by the Independent Brewers Association. Indeed, they might have been raised had a regulatory impact statement been done, which is the proper process to allow this to occur. Instead, the government ignores the calls and suggestions of those who are most vitally interested and proceeds with a bill that could have addressed the legitimate concerns that have been raised, especially the concerns of the brewers.

That is not to say that all aspects of the bill are bad or that change is not needed. Indeed, the creation of the new licence category is welcomed, even if well overdue. Making it easier to support an industry that, at last count, employs 1,800 people and has the potential to generate tens of millions of dollars for the economy is a good step. Recognising the very real limitations on artisanal producers in finding markets for their products and generating sales and income is well worth the effort.

I note that at the promotional and trade fair events that are being proposed to be covered by these amendments the limit on selling the products is 150 millilitres. That is 0.15 of a litre. That is somewhat less than half a cup. There is also a discretion vested in the liquor licensing commissioner to change that and make it even less. I would have thought that less than half a cup is barely enough to whet the whistle, touch the sides or give you a true appreciation of the quality of the beer you are drinking. Nonetheless, they are promotional events; they are not meant to be bars, nightclubs or taprooms, and I understand that, but the reality is that for beer it is, as I say, 0.15 of a litre and for spirits it is only 15 millilitres, which is probably half a nip. It will be interesting to see how that particular limitation plays out at these craft breweries.

The waiver of fees is a good idea, as I have said previously, and the lower fees available, rather than the general licence fees, I am sure will be welcomed, as will the transition provisions to encourage people to move to the artisanal licence provided for by this act. These are good things; we certainly support them.

In general, there appears to be considerable benefit with the passing of this legislation. The full impacts of it, including the very real regulatory impacts and some of the concerns raised by the Independent Brewers Association, have not been tried and tested as they could have been by a regulatory impact statement. These changes amount to some 40-odd pages of additional conditions to

the legislation. Liquor licencing is complex—no-one denies that—but this certainly seems to make it more difficult, or not as easy as it could otherwise be, for these small craft brewers, often family businesses or small businesses starting off in a small way on limited funds and trying to get ahead.

My electorate is home to several craft brewers, including the well-known Fonzie Abbott brand. You can get their coffee at the airport on the way out of town if you are lucky to get a flight. After starting with coffee, the team down at Crosby Road now brew beer and distil an award-winning gin as well as, I am told, a very drinkable vodka sold in distinctive tin containers. It is an exciting business, supported by many locals. It has just opened a new taproom, which I look forward to visiting very soon. These businesses are in almost every suburb these days and provide a fun, interesting and local opportunity to experience the best, and sometimes the worst, I have to say, beers and spirits Queensland has to offer. Any brewer who says they have not made a bad batch has not properly brewed.

With these remarks and comments I want to again reiterate our support for the bill. We will certainly watch its implementation and operation closely. We wish all those in the sector the very best with their endeavours to build and grow their businesses, to employ a new generation of brewers and distillers, and to add, through the responsible sale of their products, to the sum happiness of the community.

To finish off, let me quote some more wisdom from entertainment and politics, something that my father said to me a very long time ago: 'I feel sorry for people who don't drink. When they wake up in the morning that is as good as they are going to feel all day.' That, I think, was from the chairman of the board, Mr Frank Sinatra, which would not surprise me, coming from Dad. Also, from someone who is a favourite of mine and who I perhaps quote far too much, Winston Churchill: 'Always remember that I have taken more out of alcohol than alcohol has taken out of me.' We will support the bill.