Wine Industry Amendment Bill 2007 (Qld)

On 22 May 2007, the Hon M Keech MP, then Minister for Tourism, Fair Trading, Wine Industry Development and Women, introduced the Wine Industry Amendment Bill 2007 (Qld) (‘Bill’) into the Queensland Legislative Assembly.

The Bill proposes a number of amendments to the Wine Industry Act 1994 (Qld) (‘Act’).

This Research Brief:

- provides some limited background information on the wine industry in Queensland; and

- discusses some of the key proposed amendments in the context of the current provisions of the Act.

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EXECUTIVE SUMMARY

On 22 May 2007, the Hon M Keech MP, then Minister for Tourism, Fair Trading, Wine Industry Development and Women, introduced the Wine Industry Amendment Bill 2007 (Qld) (‘Bill’) into the Queensland Legislative Assembly.

The Bill proposes a number of amendments to the Wine Industry Act 1994 (Qld) (‘Act’).

This Research Brief:

▪ provides some limited background information on the wine industry in Queensland (pages 2-3); and
▪ discusses some of the key proposed amendments in the context of the current provisions of the Act (pages 3-17).

The amendments discussed include:

▪ clarifying some of the activities that may be undertaken by wine merchant licensees (pages 4-5);
▪ providing for the easy conversion of wine merchant licences to wine producer licences (pages 5-7);
▪ requiring the advertising of applications under the Act only if decided necessary by the chief executive (pages 7-8);
▪ adopting a more precise term ‘satellite cellar doors’ to describe premises other than the main premises from which wine producer licensees may undertake their activities (pages 8-9);
▪ standardising the opening hours for wine producers and wine merchants as 8am, and also allowing the satellite cellar doors of wine merchants to open at this time (pages 10-11);
▪ allowing a wine producer licence to be maintained during times of unexpected natural disaster (pages 11-12);
▪ allowing wine merchants to hold permits under the Act, and allowing multiple events to be held at the one place under the same permit (pages 12-13); and
▪ providing a new notification process for certain licensees conducting private events (pages 13-14).
1 INTRODUCTION

On 22 May 2007, the Hon M Keech MP, then Minister for Tourism, Fair Trading, Wine Industry Development and Women, introduced the Wine Industry Amendment Bill 2007 (Qld) (‘Bill’) into the Queensland Legislative Assembly.¹

The Bill proposes a number of amendments to the Wine Industry Act 1994 (Qld) (‘Act’). This Research Brief discusses some of the key proposed amendments in the context of the current provisions of the Act. These amendments involve:

- clarifying some of the activities that may be undertaken by wine merchant licensees;
- providing for the easy conversion of wine merchant licences to wine producer licences;
- requiring the advertising of applications under the Act only if decided necessary by the chief executive;
- renaming the premises other than the main premises from which wine producer licensees may undertake their activities as ‘satellite cellar doors’;²
- standardising the opening hours for wine producers and wine merchants as 8am, and also allowing the satellite cellar doors of wine merchants to open at this time;
- allowing a wine producer licence to be maintained during times of unexpected natural disaster;
- allowing wine merchants to hold permits under the Act, and allowing multiple events to be held at the one place under the same permit; and
- providing a new notification process for certain licensees conducting private events.

The Research Brief also provides some limited background to the Queensland wine industry.

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¹ The Wine Industry Development Division of the former Department of Tourism, Fair Trading and Wine Industry Development now exists within the Department of Tourism, Regional Development and Industry. The relevant Minister is the Hon D Boyle MP.

² The term currently used is “other premises”.
2 BACKGROUND TO THE QUEENSLAND WINE INDUSTRY

The 2005-06 Annual Report of the Department of Tourism, Fair Trading and Wine Industry Development contains the following information concerning the wine industry in Queensland:³

- the Queensland wine industry is valued at approximately $40 million annually, with $1 million in export sales to 16 different countries from 14 wineries;
- there are 10 wine growing regions in Queensland, namely the Granite Belt, South Burnett, Darling Downs, Gold Coast and Hinterland, Sunshine Coast and Hinterland, Scenic Rim and Brisbane, Somerset Valley, the Western Downs, North Burnett and Far North Queensland;
- the number of state wine producers and wine merchants grew by 94% over the previous five years. As at 30 June 2006, there were 176 licensees compared to just 91 in 2001;
- more than 90% of Queensland wine producers operate a cellar door – many with a café or restaurant – the highest percentage in Australia. This equated to about 200 cellar doors operating throughout Queensland in 2006;
- wine varieties thriving in Queensland include Verdelho, chardonnay, Semillon, pinot gris, shiraz, cabernet and merlot;
- Queensland has a total vineyard area of more than 1,450 hectares under cultivation, with the 2006 grape crush amounting to about 6,000 tonnes;
- the vast majority (87%) of Queensland producers are small, with less than 50 grape crush tonnes per year; and
- 28% of the state’s cellar doors are located in the Granite Belt, followed by 14% in the Scenic Rim and Brisbane, 13% in the Sunshine Coast and Hinterland, 9% in each of the South Burnett and Gold Coast and Hinterland, 8% in each of the Darling Downs and Far North Queensland, 6% in the North Burnett, 3% in the Somerset Valley and 2% in the Western Downs.

The Queensland Wine Industry Development Strategy⁴ was released in December 2004 and is a five-year strategy with the goal of developing a sustainable, diverse and innovative Queensland wine industry. A review of the Act was identified as an


action under the strategy, and a consultation paper on the review was released in November 2005.\(^5\)

67 submissions to the consultation paper, which closed in February 2006, were received.\(^6\)

Some of the issues that were raised for discussion in the consultation paper are sought to be implemented as proposed amendments to the Act under the Bill.

### 3 WINE INDUSTRY ACT 1994 (QLD) AND PROPOSED AMENDMENTS UNDER THE BILL

The following key features of the Act are discussed below, together with any relevant amendments proposed by the Bill:

- the objectives of the Act;
- the licences available under the Act;
- the permits available under the Act;
- various offences established by the Act;
- the records licensees are required to keep; and
- the Queensland Wine Industry Policy Council.

#### 3.1 OBJECTIVES OF THE ACT

The Act seeks to:

- enable the efficiency of the Queensland wine industry to be developed further;
- foster further investment in, and growth of, the Queensland wine industry;
- help the Queensland wine industry to develop further its tourism potential;
- establish a system under which the integrity of the Queensland wine industry is ensured; and
- regulate the Queensland wine industry in a way that is compatible with minimizing harm arising from the misuse of liquor and the aims of the *National

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Health Policy on Alcohol adopted by the Ministerial Council on Drug Strategy and published by the Commonwealth.\(^7\)

Importantly, these objectives are sought to be achieved:

- by licensing persons under the Act so that they can sell wine;\(^8\) and
- by the ‘Wine Industry Policy Council’, which is established under the Act by the Minister as a representative body to advise the Minister.\(^9\)

3.2 Licences under the Act

In order for a person to lawfully sell wine in Queensland, the person must first either be licensed under the Act or be authorised to sell wine under the Liquor Act 1992 (Qld).\(^10\)

3.2.1 ‘Wine producer’ licences and ‘wine merchant’ licences

The Act provides for licensing as either a ‘wine producer’ or a ‘wine merchant’.

**Licensing as a wine producer**

A ‘wine producer’ licence, to sell wine under the Act, may be obtained if the business a person will conduct under the licence will involve:

- selling wine made from fruit grown by the person on the premises to which the licence will relate; or
- selling wine made by the person on the premises to which the licence will relate.\(^11\)

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\(^7\) Wine Industry Act 1994 (Qld), s 3(1).

\(^8\) Wine Industry Act 1994 (Qld), s 3(2). Note that a person who is licensed under this Act does not need to be licensed under the Liquor Act 1992 (Qld) before they can lawfully sell wine (Wine Industry Act 1994 (Qld), s 3(3)).

\(^9\) Wine Industry Act 1994 (Qld), s 3(4) and part 6.

\(^10\) Wine Industry Act 1994 (Qld), s 6(1).

\(^11\) Wine Industry Act 1994 (Qld), s 6(2).
Licensing as a wine merchant

In comparison, a ‘wine merchant’ licence, to sell wine under the Act, may be obtained if the business a person will conduct under the licence is not of the nature of a business conducted under a wine producer licence (as described above) but will still otherwise contribute to the Queensland wine industry in a substantial way.\(^\text{12}\) For example, the person may:

- buy fruit grown in Queensland to either make wine in Queensland or have wine made, under the person’s direction, on the premises of another winemaker in Queensland;
- grow fruit, in Queensland, that will later be used to make wine, but until that time buy fruit to make wine; or
- blend, in Queensland, different wines to create a unique wine.\(^\text{13}\)

The following activities are not considered to contribute to the Queensland wine industry in a substantial way:

- merely buying bulk wine from outside Queensland and bottling it in Queensland; or
- merely selling only wine made and bottled by other persons.\(^\text{14}\)

Relevant amendment proposed by the Bill – clarifying wine merchant activities

The Bill proposes an amendment to clarify that a wine merchant licence may still be granted where a minor part of a person’s business will involve selling wine made only from fruit grown, by the person, on the premises to which the person’s wine merchant licence will relate.\(^\text{15}\)

3.2.2 Applying for a licence as a wine producer or wine merchant

Applications for wine producer and wine merchant licences are made to the chief executive. They must include the following particulars:

- a copy of the registered plan of survey and the instrument of title for the premises to which the application relates;

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\(^{12}\) Wine Industry Act 1994 (Qld), s 6(3).

\(^{13}\) Wine Industry Act 1994 (Qld), s 6(4).

\(^{14}\) Wine Industry Act 1994 (Qld), s 6(5).

\(^{15}\) Clause 5(2); proposed new s 6(4A).
• a description of each area from which it is proposed to sell or supply wine on the premises;
• a plan of the premises drawn to scale showing the layout of the premises;
• a food licence issued by the relevant local government;
• evidence that conducting the proposed business on the premises is permitted under the planning scheme of the relevant local government;
• if the application is for a wine producer licence and the applicant grows, on the premises, fruit for making wine, the types of fruit grown and the size of the area in which each type of fruit is grown;
• if the application is for a wine producer licence and the applicant makes wine on the premises, a description of the winemaking facilities on the premises; and
• if the application is for a wine merchant licence, a description of the facilities on the premises that will enable the applicant to contribute to the Queensland wine industry in a substantial way.\(^{16}\)

Currently, the application fee for a wine producer licence is $432; for a wine merchant licence, it is $1,849.\(^{17}\)

In deciding an application, the chief executive must consider the suitability of the applicant to hold a licence by, for example, having regard to, and making inquiries about, the person’s knowledge and understanding of their obligations under the Act and their character and standing (e.g. criminal history).\(^{18}\)

**Relevant amendment proposed by the Bill - converting a wine merchant licence to a wine producer licence**

The Bill proposes allowing a wine merchant licensee to apply for a conversion of their licence to a wine producer licence, without having to again provide the particulars required for an initial application for a licence under the Act or pay the application fee. In most cases, the chief executive will also not be required to again consider whether the wine merchant licensee is a suitable person in terms of holding a wine producer licence.\(^{19}\)

This proposed amendment has been explained as follows:

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\(^{16}\) *Wine Industry Act 1994 (Qld)*, s 7; *Wine Industry Regulation 1995 (Qld)*, s 4.

\(^{17}\) *Wine Industry Regulation 1995 (Qld)*, schedule.

\(^{18}\) *Wine Industry Act 1994 (Qld)*, ss 9 and 10.

\(^{19}\) *Clauses 6 and 7*, proposed amendment to section 7 and insertion of a new section 8.
Currently, applicants who may have significantly invested in establishing a vineyard need to initially hold a wine merchant licence due to the 3-5 year lead time for their vines to become fully productive.

Once the licensee’s vines become productive and wine is being made from that fruit, a further application and supporting documentation must be lodged, and additional lodgement fees paid, to obtain an appropriate wine producer licence. ... [The new conversion process] will reduce applicant ‘red-tape’ and the payment of another application fee when converting from a wine merchant to the wine producer licence category.20

3.2.3 Advertising applications and making submissions about applications

Currently, a person is required to advertise an application under the Act by:

- publishing a notice in the gazette;
- publishing the notice twice in a newspaper circulating in the locality of the premises to which the application relates; and
- conspicuously displaying a copy of the notice on the premises for at least 28 days after the application is made.21

However, the chief executive may dispense with this requirement in certain instances, including if it is not likely that members of the public in the locality would be affected by, or concerned about, the grant of the application, or if the application already needs to be advertised as part of another process related to the application (e.g. obtaining town planning approval).22

Certain persons may make written submissions to the chief executive about the granting of such an application.23 The grounds on which objections may be made are:

- undue offence, annoyance, disturbance or inconvenience to people living in the locality to which the application relates or travelling to or from a place of worship, hospital or school in the locality; or
- the amenity, quiet or good order of the locality would be adversely affected in some way.24

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20 Wine Industry Amendment Bill 2007 (Qld), Explanatory Notes, p 3.
22 Wine Industry Act 1994 (Qld), s 25(2).
23 Wine Industry Act 1994 (Qld), s 26; Wine Industry Regulation 1995 (Qld), ss 7-9.
24 Wine Industry Regulation 1995 (Qld), s 10.
Relevant amendment proposed by the Bill – requirement to advertise will be the decision of the chief executive

The Bill proposes amending the Act to require the chief executive to decide whether an application should be advertised.\(^{25}\)

The existing requirement in relation to advertising has been recognised as being considerably costly in some circumstances, and it is anticipated that the proposed amendment “will reduce applicant costs and minimise the time taken to obtain a wine industry licence in the majority of cases”.\(^{26}\)

3.2.4 Activities authorised by a wine producer licence

A wine producer licensee may:

- sell the licensee’s wine in sealed containers for consumption off the licensed premises;
- sell or give the licensee’s wine as a sample for consumption on the licensed premises;
- if a condition of the licence permits, sell the licensee’s wine, other than as a sample, for consumption on the licensed premises (in granting such a condition, the chief executive must have regard to the suitability of the premises for this purpose);
- if a condition of the licence permits, sell or give the licensee’s wine on other premises approved by the chief executive:
  - as a sample for consumption on the premises;
  - other than as a sample, for consumption on the premises; or
  - for consumption off the premises (in granting such a condition, the chief executive must have regard to the suitability of the premises for this purpose, the location of the other premises in relation to the main premises and the ability of the licensee to control the other premises); and
- if a condition of the licence permits, sell wine, other than the licensee’s wine:
  - for consumption on the licensed premises; and
  - for consumption off the licensed premises, but only if the sale is in the amounts, and in the circumstances, prescribed under a regulation (the total amount of wine sold by a licensee in this circumstance in a financial year must not be more than the total amount of the licensee’s wine sold by the licensee in the year).\(^{27}\)

\(^{25}\) Clause 13; proposed amendment to s 25.

\(^{26}\) Explanatory Notes, p 5.

\(^{27}\) Wine Industry Act 1994 (Qld), s 15.
If a wine producer sells wine in a sealed container, they must ensure the container has a label on it stating:

- the area where the fruit used to make the wine was grown; and
- the place where the wine was made.  

Currently, a wine producer licence will state the premises that are to be the ‘main premises’ under the licence. As discussed above, the chief executive may also allow, as a condition of such a licence, the sale of wine from ‘other premises’ approved by the chief executive.

**Relevant amendment proposed by the Bill – ‘satellite cellar doors’**

The Bill proposes replacing the reference to ‘other premises’ under a wine producer licence to the more “precise term” of ‘satellite cellar doors’.

It is also proposed that, in deciding whether to approve premises as a satellite cellar door, the chief executive be required to take the following additional matters into account:

- the types of business activities being conducted at the premises; and
- the number of satellite cellar doors already approved for the licensee’s licence.

It has been explained that:

*These new provisions will assist decision making on applications in support of the Act’s objective to minimise harm from alcohol arising from proliferation of liquor outlets throughout the community. This change also supports the Government’s policy position to prevent the sale of liquor at supermarkets.*

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28 *Wine Industry Act 1994* (Qld), s 17; Wine Industry Regulation 1995 (Qld), s 5.


30 *Wine Industry Act 1994* (Qld), s 15(3).

31 Explanatory Notes, p 4.

32 *Clauses 10 and 11*; proposed amendments to ss 13 and 15.

33 *Clause 11*; proposed new ss 15(5)(d) and (e).

34 Explanatory Notes, p 4.
3.2.5 **Activities authorised by a wine merchant licence**

A wine merchant licensee may:

- sell wine on the licensed premises in sealed containers for consumption off the licensed premises;
- sell or give wine on the licensed premises as a sample for consumption on the licensed premises; and
- if a condition of the licence permits, sell wine on the licensed premises, other than as a sample, for consumption on the licensed premises (in granting such a condition, the chief executive must have regard to the suitability of the premises for this purpose).  

Compared to a wine producer licence, a wine merchant licence is limited to one premises.  

However, similar to the situation with a wine producer, if a wine merchant sells wine in a sealed container, they must ensure the container has a label on it stating:

- the area where the fruit used to make the wine was grown; and
- the place where the wine was made.

3.2.6 **Trading hours**

A wine producer licence authorises the licensee to sell wine:

- on the main premises – between 8am and midnight on any day other than Christmas Day, Good Friday or Anzac Day (trading hours on Anzac Day are between 1pm and midnight); and
- on other premises, if the licence so permits – between 10am and midnight on any day other than Christmas Day, Good Friday or Anzac Day (trading hours on Anzac Day are between 1pm and midnight).

In comparison, a wine merchant licence authorises the licensee to sell wine on the licensed premises between 10am and midnight on any day except Christmas Day,

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35 *Wine Industry Act 1994* (Qld), s 16.

36 *Wine Industry Act 1994* (Qld), s 9(4).

37 *Wine Industry Act 1994* (Qld), s 17; *Wine Industry Regulation 1995* (Qld), s 5.

38 *Wine Industry Act 1994* (Qld), s 18(1).
Good Friday or Anzac Day (trading hours on Anzac Day are between 1pm and midnight).\textsuperscript{39}

For both wine producer and wine merchant licensees:
\begin{itemize}
  \item wine received from a licensee during these authorised trading hours may still be consumed for a 30 minute period after the trading hours end;\textsuperscript{40} and
  \item an application can be made to the chief executive for extended trading hours including, for example, Christmas Day, Good Friday or before 1pm on Anzac Day.\textsuperscript{41}
\end{itemize}

Relevant amendment proposed by the Bill – same standard trading hours for wine producers and wine merchants

The Bill proposes that 8am be the standard opening time for all licensees, regardless of whether they hold a wine producer licence or a wine merchant licence, and regardless of the type of premises from which the wine will be sold (i.e for wine producer licences, the main premises or a satellite cellar door).\textsuperscript{42}

3.2.7 Variations, suspensions and cancellations of licences

The grounds on which wine producer and wine merchant licences may currently be varied, suspended or cancelled are as follows:
\begin{itemize}
  \item if a licence was obtained because of incorrect or misleading information;
  \item if a licensee or nominee has contravened a condition of the licence;
  \item if a licensee or nominee has committed an offence against the Act or the \textit{Liquor Act 1992 (Qld)} concerning the sale of wine;
  \item if the licensee is not, or is no longer, a suitable person to be a licensee;
  \item if the licensee has ceased to conduct the business of selling wine; or
  \item for a wine merchant licence – if the licensee is not conducting, or no longer conducts, a business that contributes to the Queensland wine industry in a substantial way.\textsuperscript{43}
\end{itemize}

The Act then provides a procedure for the variation, suspension or cancellation.\textsuperscript{44}

\begin{itemize}
\item \textit{Wine Industry Act 1994 (Qld), s 18(2).}
\item \textit{Wine Industry Act 1994 (Qld), s 20.}
\item \textit{Wine Industry Act 1994 (Qld), s 19.}
\item \textbf{Clause 12}; proposed amendments to section 18.
\item \textit{Wine Industry Act 1994 (Qld), s 27.}
\item \textit{Wine Industry Act 1994 (Qld), s 28.}
\end{itemize}
Relevant amendment proposed by the Bill – allowing a wine producer licence to be maintained during times of natural disaster

The Bill proposes amending the Act such that a wine producer licence cannot be varied, suspended or cancelled in the 12 months following the cessation of the licensee’s business due to a natural disaster (e.g. crop destruction because of fire, hail, flood, drought, insect infestation or disease). This period may be extended by a further 12 months if the chief executive is satisfied that there are special circumstances for the wine producer not having wine available to sell including, for example, adverse weather conditions for growing the fruit from which the wine is to be made.\(^{45}\)

### 3.3 PERMITS UNDER THE ACT

The Act currently allows only wine producer licensees\(^{46}\) to apply to the chief executive for a permit authorising the licensee to sell wine at a particular place stated in the permit.\(^ {47}\)

The chief executive may grant a permit only if the chief executive:

- is satisfied that the purpose of the permit is to promote a particular winery or region; and
- reasonably considers it is more appropriate for wine to be sold under a permit instead of a licence because the purpose of the permit is to sell the licensee’s wine at a single event.\(^ {48}\)

Relevant amendment proposed by the Bill – extending permits to wine merchants and multiple events held at the same place

The Bill proposes amending the Act so that:

- wine merchants may also hold permits under the Act;\(^ {49}\)

\(^{45}\) Clause 15(3); proposed new ss 27(3) and (4).

\(^{46}\) Wine Industry Act 1994 (Qld), s 31A. The application may be made by a licensee individually or by a group of licensees (Wine Industry Act 1994 (Qld), s 32(5)).

\(^{47}\) Wine Industry Act 1994 (Qld), ss 32(1) and (3).

\(^{48}\) Wine Industry Act 1994 (Qld), s 32(2).

\(^{49}\) Clause 17; proposed deletion of s 31A.
permits will be available to cover multiple events held at the same place, not just single events;\(^{50}\) and

it is clear a permit allows the sale of the licensee’s wine in sealed containers at the place stated in the permit for consumption away from that place, together with the sale or giving away of the licensee’s wine as a sample for consumption at the place stated in the permit.\(^{51}\)

Relevant amendment proposed by the Bill – new notification process for certain licensees conducting ‘private events’

The Bill also proposes amending the Act such that licensees who, on more than one occasion, have been granted a permit under the Act and complied with the conditions of the permit, may apply to the chief executive for approval to merely notify\(^{52}\) the chief executive if:

- the licensee again proposes to sell the licensee’s wine, or give the wine as a sample, at an event for which a permit could be granted; and
- the event is a ‘private event’.\(^{53}\)

A ‘private event’ will be an event, held at premises other than licensed premises, if:

- the event is not publicly advertised or is not open to the public or to casual attendance; or
- attendance at the event is restricted by personal invitation by the event’s host; or
- admission to the event does not involve paying a fee for admission or for entertainment or services provided at the event.

Examples include a 21st birthday party, a boardroom lunch, a company cocktail party, a wedding, a wine tasting or a promotion for a winery.\(^{54}\)

An approval will:

- apply only to a private event;

\(^{50}\) Clauses 18(1) and (3); proposed amendment to s 32(2)(b) and proposed new s 32(5). This will allow licensees attending regular promotional events to make one application for a permit, listing the proposed dates when the events will be conducted, thereby overcoming the need to lodge an application for a permit each time a regular event is being attended by the licensee (Explanatory Notes, p 5). The option will not be available to a group of licensees.

\(^{51}\) Clauses 18(2) and (4); proposed replacement of s 32(3) and proposed new s 32(8).

\(^{52}\) For the notification process, see cl 19; proposed new s 32B.

\(^{53}\) Clause 19; proposed new s 32A.

\(^{54}\) Clause 25; proposed new definition for ‘private event’ in the schedule.
authorise the licensee to sell their wine in sealed containers at the place stated in the notification for the event for consumption away from the place, or to sell or give the licensee’s wine as a sample for consumption at the place; and
be subject to the conditions stated in the approval.

3.4 Offences

The Act provides for a number of offences, including the following selected examples:

• selling wine other than as authorised under the Act, unless the wine is sold under the authority of a licence or permit issued under the **Liquor Act 1992** (Qld) (a maximum penalty of 350 penalty units, or $26,250, applies);\(^{55}\)
• not complying with the conditions of a licence or permit (a maximum penalty of 350 penalty units, or $26,250, currently applies; however, the Bill proposes reducing this maximum penalty to 40 penalty units, or $3,000, in order to provide consistency with comparable offences in the **Liquor Act 1992** (Qld));\(^{56}\)
• selling wine outside authorised trading hours (a maximum penalty of 100 penalty units, or $7,500, applies);\(^{57}\)
• selling wine to minors or unduly intoxicated persons (a maximum penalty of 250 penalty units, or $18,750, applies for licensees and nominees, and 40 penalty units, or $3,000, in other cases);\(^{58}\)
• minors, at licensed premises or places under a permit, drinking wine or being in possession of wine (a maximum penalty of 25 penalty units, or $1,875, applies);\(^{59}\)
• various offences relating to the false representation of age;\(^{60}\)
• offences relating to false and misleading statements or documents;\(^{61}\) and

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55 *Wine Industry Act 1994* (Qld), ss 34(1) and (2). Under the *Penalties and Sentences Act 1992* (Qld), s 5, the value of a penalty unit is currently $75.


57 *Wine Industry Act 1994* (Qld), s 35.

58 *Wine Industry Act 1994* (Qld), s 36.

59 *Wine Industry Act 1994* (Qld), s 37.

60 *Wine Industry Act 1994* (Qld), ss 38-41.

• licensees who are absent for more than 28 days without the approval of the chief executive (a maximum penalty of 100 penalty units, or $7,500, applies).\(^{62}\)

### 3.5 RECORDS AND ANNUAL FEES

The Act requires licensees to keep certain records. Failure to do so will attract a maximum penalty of 350 penalty units, or $26,250.\(^{63}\)

The records a wine producer licensee must keep are:

- if the licensee grows, on the licensed premises, fruit to be used for making wine:
  - the types of fruit grown;
  - the size of the area in which each type of fruit is grown;
  - the day each area is planted with the plants, trees or vines on which the fruit is grown; and
  - the day the fruit is harvested;
- if the licensee uses fruit, other than fruit grown by the licensee on the licensed premises, to make wine:
  - the name and address of each person who grew the fruit used by the licensee to make the wine;
  - the amount of fruit delivered by each person; and
  - the day the fruit is delivered by each person;
- if the licensee makes wine on the licensed premises:
  - the type and quantity of fruit used to make each wine; and
  - the day the wine was bottled;
- if the licensee has wine made but the wine is not made on the licensed premises:
  - the name and address of the person who made the wine for the licensee;
  - the amount of each type of fruit sent to the person;
  - the day the fruit is delivered to the person; and
  - the total volume of wine made from the fruit by the person for the licensee.\(^{64}\)

The records a wine merchant licensee must keep are:

- if the licensee grows, on the licensed premises, plants, trees or vines, the fruit of which will later be used to make wine:
  - the types of plants, trees or vines grown;
  - the size of the area in which each type of plant, tree or vine is grown;

\(^{62}\) *Wine Industry Act 1994 (Qld)*, s 44.

\(^{63}\) *Wine Industry Act 1994 (Qld)*, s 50.

\(^{64}\) Wine Industry Regulation 1995 (Qld), s 15.
- the day each area is planted with the type of plant, tree or vine; and
- the year when it is expected that wine made from the fruit of the type of plant, tree or vine will first become available;

- if the licensee uses fruit, other than fruit grown by the licensee on the licensed premises, to make wine:
  - the name and address of each person who grew the fruit used by the licensee to make the wine;
  - the amount of fruit delivered by each person; and
  - the day the fruit is delivered by each person;

- if the licensee has wine made but the wine is not made on the licensed premises:
  - the name and address of the person who made the wine for the licensee;
  - the amount of each type of fruit sent to the person;
  - the day the fruit is delivered to the person; and
  - the total volume of wine made from the fruit by the person for the licensee.\(^\text{65}\)

Licensees must also keep a record of each purchase of wine used for blending.\(^\text{66}\)

In addition, licensees are required to keep records about the wine sales they make. If the holder of a wine producer or wine merchant licence sells wine to the holder of a licence or permit under the *Liquor Act 1992* (Qld), the licensee must keep records of:

- the name and address of the person to whom the sale is made;
- the number of the buyer’s licence;
- the date of the sale;
- the type of wine and the type of container in which the wine is sold;
- the total quantity of each type of wine; and
- the sale price for each type of wine included in the sale.\(^\text{67}\)

For other sales of wine, licensees must keep a record about the following for each category of ‘prescribed buyer’ (defined below):

- the total quantity of each type of wine;
- the total quantity of each type of wine sold in each type of container; and
- the total value for each type of wine.\(^\text{68}\)

\(^{65}\) Wine Industry Regulation 1995 (Qld), s 16.

\(^{66}\) Wine Industry Regulation 1995 (Qld), s 17.

\(^{67}\) Wine Industry Regulation 1995 (Qld), s 18(2).

\(^{68}\) Wine Industry Regulation 1995 (Qld), s 18(3).
The categories of ‘prescribed buyer’ are:

- for each state, other than Queensland, persons who buy wine for resale under an interstate licence;
- persons in Australia who buy wine for export, as part of a commercial transaction, from Australia;
- persons in other countries to whom the licensee sells and exports wine; and
- other persons who buy wine, other than holders of a licence or permit under the *Liquor Act 1992* (Qld) or persons described in the points above.\(^{69}\)

Licensees must also, by 21 July each year, give the chief executive a return about the above matters.\(^{70}\)

### 3.6 QUEENSLAND WINE INDUSTRY POLICY COUNCIL

The Act provides for the establishment by the Minister of the Queensland Wine Industry Policy Council.\(^{71}\)

The functions of the Council are to:

- consult with, and provide advice to, the Minister about issues of strategic significance to the wine industry;
- examine, and make recommendations to the Minister on, issues relevant to the wine industry, either on the Council’s own initiative or if asked by the Minister;
- find out, and advise the Minister on, the wine industry’s views about the administration of the industry;
- provide a forum for discussion of issues relevant to the wine industry; and
- provide a mechanism for the recognition of excellence in the wine industry.\(^{72}\)

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69 Wine Industry Regulation 1995 (Qld), s 18(4).

70 *Wine Industry Act 1994* (Qld), s 51; Wine Industry Regulation 1995 (Qld), s 19.


72 Wine Industry Regulation 1995 (Qld), s 13.
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