

Holidays and Other Legislation Amendment Bill 2019

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Grace Grace, Minister for Education and Minister for Industrial Relations

Short title

The short title of the Bill is the Holidays and Other Legislation Amendment Bill 2019.

Policy objectives and the reasons for them

The policy objective of the amendments is to implement initial elements of the Government's response to the independent evaluation of the Tackling Alcohol-Fuelled Violence Policy (TAFV Policy).

On 26 July 2019, the Queensland Government released its interim response to the two-year independent evaluation of the effectiveness of the measures introduced by the TAFV Policy. In its interim response to the evaluation report, the Government provided in-principle support for recommendations that would enhance the existing mandatory ID scanning framework by:

- removing the requirement for licensees of regulated premises to scan patron IDs between Monday and Thursday if the premises does not trade past 1am (recommendation 3(a)); and
- introducing a re-entry pass system to allow for previously scanned patrons to re-enter the same regulated premises without rescanning during regulated hours (recommendation 3(b)).

In particular, these recommendations were made by the evaluators as a means of addressing unintended consequences being experienced by licensees as a result of ID scanning requirements.

Under the *Liquor Act 1992* (Liquor Act), licensees of regulated premises are required to scan the ID of each patron at the point of entry from 10pm on any night the premises is authorised

to supply liquor after 12 midnight. However, this has meant that licensees must start scanning from 10pm even if they choose to close by 12 midnight due to low patron demand.

Additionally, some licensees and patrons have experienced issues associated with the current requirement to scan each person on both entry and re-entry to a regulated premises, particularly in respect of premises with external facilities.

Achievement of policy objectives

The policy objectives will be achieved by amending the Liquor Act in accordance with the supported recommendations.

Amendment 1 amends section 173EH of the Liquor Act to provide that licensees of regulated premises are not required to scan patron photo IDs from Monday to Thursday if the licensed premises does not trade past 1am. This will address recommendation 3(a), by providing licensees with flexibility and discretion in the operation of ID scanners on evenings with a typically lower risk of potential violence and alcohol related harm.

Amendment 1 also inserts a new section 173EHAA to provide a re-entry pass system under which previously scanned patrons can enter the same regulated premises without rescanning during regulated hours. This will address recommendation 3(b) of the evaluation by streamlining entry processes for both licensees and patrons, while still ensuring the purposes of ID scanning are achieved and a safe environment is maintained.

Supporting amendments are also made to section 46 to allow appropriate compliance action to be taken in the event that re-entry pass requirements are not being complied with.

Alternative ways of achieving policy objectives

Legislative amendment is the only option available to make these particular improvements to the ID scanning framework.

Estimated cost for government implementation

The Office of Liquor and Gaming Regulation may be required to undertake additional compliance activity to assist with the implementation and operation of the proposed amendments.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles.

Consultation

The independent evaluation report was publicly released together with the Government's interim response on 26 July 2019.

The Department of Justice and Attorney General consulted with licensees, peak bodies and community organisations to invite their comment on the relevant evaluation report recommendations which are now the subject of the amendments. Comment was sought via targeted letters and stakeholder forums held in Brisbane on 22 August 2019 and Townsville on 25 September 2019.

The results of these stakeholder consultation processes have demonstrated significant stakeholder support for these amendments.

Consistency with legislation of other jurisdictions

Not applicable.

Notes on provisions

Amendment 1 inserts a new clause 6A into the Bill, which provides that new Part 3A amends the Liquor Act.

Amendment 1 also inserts a new clause 6B into the Bill, which amends section 46(1) of the Liquor Act (Compliance orders for licensed premises etc.) to allow a compliance order to be issued to a licensee of a regulated premises in relation to the requirements for a re-entry pass system or re-entry pass under the Liquor Act. This provision ensures that, if an investigator considers on reasonable grounds that a licensee's re-entry pass system does not meet legislated requirements, an investigator may immediately issue a notice requiring the licensee to take appropriate action to address issues identified with the re-entry pass system or re-entry pass. New clause 6B also renames subsections within section 46.

Amendment 1 also inserts a new clause 6C into the Bill, which amends section 173EH (Scanning obligations of licensees for regulated premises). New subsection 173EH(2A) provides that no ID scanning obligations apply during regulated hours starting on a Monday, Tuesday, Wednesday or Thursday if the regulated premises are not open for business after 1am on the following day. This is regardless of whether the licence, extended hours permit or extended trading hours approval for the premises authorises the premises to be open after 1am on that day. This provides a discretion to licensees of regulated premises on these days in respect of ID scanning based on their chosen hours of operation. Existing mandatory ID scanning obligations will continue to apply to licensees of regulated premises on Friday, Saturday and Sunday nights.

Additionally, new subsection 173EH(2B) provides that, despite the new discretion, mandatory ID scanning obligations to licensees of a regulated premises apply during regulated hours that start on a Monday, Tuesday, Wednesday or Thursday if the next day is a public holiday.

Clause 6C also amends subsection 173EH(3) to ensure that despite the discretion provided by new subsection 173EH(2A), a licence condition for a regulated premises may require the licensee for the premises to ensure that, during the regulated hours for the premises, no person is allowed to enter the premises as a patron unless ID scanning obligations are complied with.

Further, new subsection 173EH(8A) provides that a licensee's scanning obligations under section 173EH are subject to new section 173EHAA (Re-entry pass system for regulated premises). This means that a licensee's ID scanning obligations will not apply in respect of a person who seeks to re-enter a premises if that person has been issued with a re-entry pass for the premises.

Clause 6C also amends section 173EH to update sectional references and renumber subsections.

Amendment 1 also inserts a new clause 6D into the Bill, which inserts a new section 173EHAA (Re-entry pass system for regulated premises) into the Liquor Act. New subsection 173EHAA(1) provides that a licensee of regulated premises is not required to comply with the ID scanning obligations provided in section 173EH(1) for a person re-entering the premises as a patron during regulated hours in a trading period, if:

- the licensee's re-entry pass system for the regulated premises complies with the various requirements for a re-entry pass system as provided under new subsection 173EHAA(2);
- the licensee has complied with scanning obligations in respect of a person who first entered the regulated premises;
- the re-entry pass that has been applied or issued under a re-entry pass system complies with the various requirements for a re-entry pass as provided under new section 173EHAA(3); and
- the person must have the re-entry pass either on their person or in their possession when they re-enter the regulated premises.

New subsection 173EHAA(2) provides that a re-entry pass system for a regulated premises must be in writing, be made available for inspection by an investigator and include details of the types of re-entry passes for the system to be applied or issued to persons re-entering the regulated premises during the regulated hours period.

New subsection 173EHAA(3) provides that a re-entry pass is an identifying mark, an object issued to a person or a type of electronic identification applied or issued under the system to a person, that is:

- unique to the regulated premises and to each trading period for the regulated premises;
- identifiable as a re-entry pass; and
- not able to be falsified, copied or transferred from the person to another person.

New subsection 173EHAA(4) provides definitions for the terms 'regulated hours' and 'trading period'.

These new subsections operate to ensure that re-entry passes are only acceptable for use when the legislated requirements for the licensee's re-entry pass system are met. The new subsections also provide for appropriate controls to safeguard against misuse or abuse of the re-entry pass system, and ensure each pass only applies to a single venue and a single trading period. Should any requirement of the re-entry pass or re-entry pass system not be met, the licensee must scan patrons on each entry in accordance with section 173EH.

Amendment 2 amends the long title of the Bill to include the Liquor Act.