

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

(Introduced by Hon. Norm Kelly)

(As amended in Committee)

LIQUOR LICENSING AMENDMENT BILL 1998

A BILL FOR

AN ACT to amend the *Liquor Licensing Act 1988*.

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Liquor Licensing Amendment Act 1998*.

cl. 2

Commencement

2. This Act comes into operation on the day on which it receives the Royal Assent.

Principal Act

5 **3.** In this Act the *Liquor Licensing Act 1988** is referred to as the principal Act.

[* *Act No. 54 of 1988.*

*For subsequent amendments see 1997 Index to
Legislation of Western Australia, Table 1, p. 136 and
Act No. 56 of 1997.]*

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Division 1A inserted in Part 3

4. After Division 1 of Part 3 of the principal Act the following Division is inserted —

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***Division 1A — Prohibited concentration
of licence-holding***

Application of this Division

37B. (1) In this Division a “**class**” consists of —

(a) all hotel licences; or

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(b) all liquor store licences.

(2) A licence is to be taken into account for the purposes of this Division despite the fact that —

- (a) a protection order is in force in respect of the premises to which the licence relates; or
- 5 (b) the licence is suspended.

Definition of “prohibited concentration”

37C. (1) For the purposes of this Division there is a prohibited concentration of the holding of licences of a particular class if —

- 10 (a) one licensee; or
- (b) one group of licensees,

holds more than 15% of the number of licences of that class that are in force.

15 (2) For the purposes of subsection (1) (b), two or more licensees constitute a group where —

- (a) they are corporations that are related to each other within the meaning of section 50 of the Corporations Law;
- 20 (b) they are each carrying on business under a licence and the same person has, or the same persons have together, an interest in all of the businesses so carried on that would be treated as a controlling interest for the purposes of section 16D of the *Pay-roll Tax Assessment Act 1971*; or
- 25 (c) they come within any additional definition of what constitutes a group that is prescribed for the purposes of this Division.

cl. 4

Restriction on grant or transfer

37D. (1) An application for —

- (a) the grant of a licence; or
- (b) approval to the transfer of a licence,

5 of a particular class shall not be granted if the grant would result in a prohibited concentration of the holding of licences of that class.

10 (2) If at any time there is a prohibited concentration of the holding of licences by a licensee or group of licensees an application for —

- (a) the grant of a licence; or
- (b) approval to the transfer of a licence,

shall not be granted to that licensee or any member of that group so long as the prohibited concentration continues.

15 **Necessary information to be provided by applicant**

37E. (1) An applicant for —

- (a) the grant of a licence; or
- (b) approval to the transfer of a licence,

20 must disclose in the application all relevant information to enable the licensing authority to determine whether the grant or approval would contravene section 37D.

(2) In subsection (1) —

5 **“relevant information”** means particulars of the rights and interests of the applicant at the time of the application in relation to, or the business carried on under, any existing licence.

Regulations

37F. Without limiting section 175, regulations may be made under that section —

- 10 (a) prescribing any definition for the purposes of section 37C (2) (c);
- (b) prohibiting acts and transactions by which the intention of this Division may be evaded; and
- 15 (c) prescribing a penalty not exceeding \$5 000 and a daily penalty of \$250 for an offence against the regulations.

Saving

20 **37G.** Where there is a prohibited concentration of the holding of licences by a licensee or group of licensees immediately before the coming into operation of the *Liquor Licensing Amendment Act 1998* such holding of licences may continue as if that Act had not been passed provided that no licence of the same class shall be granted or transferred to that licensee or group of licensees so long as the prohibited concentration continues.

25 ”.

cl. 5

Section 82 amended

5. After section 82 (3) of the principal Act the following subsection is inserted —

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- 5 (4) The power to grant approval to the transfer of a licence is subject to the provisions of Division 1A.

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