LIQUOR LEGISLATION AMENDMENT BILL 2015

Second Reading

Resumed from 14 October.

HON COL HOLT (South West — Minister for Racing and Gaming) [12.32 pm] — in reply: Before I was interrupted, I was reading from Chief Justice Wayne Martin's address to the McCusker Centre for Action on Alcohol and Youth. I will go back to that quote because the most significant part of the Liquor Legislation Amendment Bill 2014 is on secondary supply. It is probably the most contentious issue, but it has received a lot of support throughout the community and in Parliament. I will spend a bit of time explaining the intent of the provisions and clearly articulate, if I can, our expectations about how it will operate.

Please indulge me as I repeat the start of the Chief Justice's presentation at the McCusker Centre for Action on Alcohol and Youth. It reads —

> … I very much welcome the secondary supply laws which are shortly to be introduced into the State Parliament. If passed, these would prohibit the supply of alcohol to persons under the age of 18 in addition to the existing prohibition on the sale of alcohol to such persons. Critics of those laws have observed, correctly, that enforcement of the laws will be difficult. I do not for a minute suggest that we want a society in which police attend every party in which persons present are under the age of 18, for the purpose of ascertaining whether they have been illegally supplied with alcohol.
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> However, it seems to me that, with respect, this criticism misses the point. Laws perform a number of functions. One of those functions is to specify the standards of behaviour which are considered to be acceptable in the community governed by those laws. Put another way, the laws adopted by a community should reflect and embody the moral principles and ethics of that community, and prescribe the standards of behaviour which are considered to conform with those principles and ethics. Accordingly, the passage of the secondary supply laws, by the elected representatives of the entire community of Western Australia, would make an important statement of the standards of behaviour which that community considers to be acceptable.
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> However, the passage of the laws would have a more practical impact. If it were to become illegal to supply alcohol to a person under the age of 18, it would be much easier for parents of teenage children, like me, to say to our children that there will be no alcohol at parties which they organise if there is to be anybody present under the age of 18. It also enables us to inquire of the parents of other children who are organising those parties whether there is to be any alcohol present and if so, to advise that our children will not be attending. The significance of the reinforcement which such a law would provide for parents in this difficult area of social activity cannot be over-estimated.
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> However, I emphasise that the desirability of these laws is a matter to be assessed by the Parliament, not by me.
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> Laws of themselves can only ever be part of the solution.

We in this chamber have often talked about our role in changing behaviour, and new provisions are only one part of doing that. The point made by the Chief Justice is that the laws will empower parents to set ground rules for their children and for those people who are responsible for other children when they are at their home. We must set expectations about what that behaviour should be, as reflected in secondary supply laws. The second reading speech backs up what the Chief Justice said. It reads —

> It is not the government's intention to reach inside the private homes of families, but to tackle those people who disregard another parent's wishes or who do not place any importance on responsible supervision practices.

That is a key point in the intent of these provisions. The intention of the legislation is to address situations in which adults intentionally supply liquor to juveniles without the consent of their parents. This includes 18-year-olds supplying liquor to friends who are juveniles. We have had a fair bit of discussion about leavers week. When people turn 18, they get to do a number of things; they can vote and they can access alcohol. However, with those things comes some responsibility. I know that you, Madam Acting President (Hon Liz Behjat), singled out your son because he is 18 and, potentially, he will be subject to social pressure and peer pressure during leavers week to supply his friends with alcohol. He must know that he has renewed responsibility as an as 18-year-old.

Questions were raised about consent. There is no definition of consent in the bill as you would know, Madam Acting President. It is very difficult to define "consent". It could be prescribed, but there are many forms of consent—verbal and written consent and things such as text messages. Who does a text message come from?

That is the biggest question, which is why the onus on any prosecution is to prove that consent was not given. I suggest that all 18-year-olds going to leavers week with their friends who are 17 years old and under, should get permission from their friends' parents if alcohol is to be served at a private residence. I suggest that they need to get written consent from their parents, because such consent can be shown if there is a problem. That is my advice to them.

Let us look at the other side of the coin. Once these laws are passed, nineteen-year-olds, 20-year-olds and 21-year-olds who attend leavers week—they are often referred to as "toolies"—will have a responsibility that goes beyond what it was before. That responsibility now goes way beyond that. Although I am sure that Hon Liz Behjat's son would be responsible—knowing his mother, I am sure that has been drilled into him—there will be circumstances in which that may not occur. This legislation gives parents the ability to set some ground rules for their children and the children in their care during those weeks—or any time really. I remember an occasion a few years ago when my son was playing 15-year-old football. The team won the grand final, so they went back to the coach's place for a celebration. I went to pick up my son about three hours later, and I would suggest that he had had a few Emu Export beers. On the way home we had to stop a few times. At that time, I had no recourse as a parent to go back to that footy club or even to set the view before he went to the club that I had expectations around the risk —

Hon Sue Ellery: I think you really needed to have a sit down and have a chat to your boy, rather than to have done that.

Hon COL HOLT: Of course, that is part of it, but there was an expectation that there would be responsible service of alcohol while those boys were there. Sometimes 15 and 17-year-old boys get carried away and think they can do a lot more than they actually can, so those circumstances occur. That time I picked up my son and he was safe, but there are occasions when that does not occur. Sometimes, through the irresponsible delivery of alcohol to juveniles, far worse things happen. There will be no recourse for parents until these laws are passed. That is a consequence of this legislation.

The clear intention of this legislation is to empower parents, but it will also potentially capture 18-year-olds. Hon Darren West talked about what would happen to a parent who went out and their children got stuck into their Glenfiddich, or whatever top-shelf whiskeys they had at home. Will a parent be held responsible on those occasions? Again, it will be complaint driven. Under those circumstances, a parent could be caught by these provisions and potentially be charged. It will be up to the police and the courts to determine that outcome, but that is not the intent of the secondary supply provisions in this legislation. This legislation is about empowerment and giving people a clear signal about the responsible delivery and service of alcohol to juveniles in their care. If it is the case that a parent does not trust their kids when they leave them at home, maybe they need to lock up their alcohol—like guns in a gun cabinet—so the kids cannot get to it.

Hon Darren West: Or take it with you.

Hon COL HOLT: Or take it with them. It is the same thing with leaving eskies around. It is very difficult to regulate all those things in every circumstance in which young people could access alcohol, but the clear intent of this legislation is to empower parents to set their expectations. The objective is to make it an offence for a person to supply juveniles liquor on unlicensed premises without the consent of a parent or guardian, and when consent is obtained, not having regard to responsible supervision practices. It is not the intention of this legislation to interfere with the rights of parents and guardians in their own homes. The aim is to tackle those parents who disregard other parents' wishes or who do not place any importance on responsible supervision practices. Enforcement of the provisions is likely to be complaint driven—that is, when parents make a complaint to the police about someone supplying liquor to their child. The amendment empowers parents and guardians to say no. The proposed provisions do not provide the defence mechanism of making it an offence to have knowingly supplied liquor to a juvenile, as this would enable every person to claim that they were unaware that a juvenile had consumed liquor on their premises.

The legislation applies only to unlicensed premises—for example, a person's home. To regulate every scenario in which a juvenile may access liquor is near on impossible, and an attempt to do so would be over-regulating this issue to the extent that juveniles could be forced away from supervised environments and into dangerous unsupervised environments, such as parks or streets, to drink alcohol. That is the other part of this debate. It is about people being responsible for the people in their care and recognising that it may be okay to have one or two drinks under supervision because we do not want to drive juveniles into parks or wherever else they may drink in public in unsafe environments. This also acknowledges that drinking occurs at religious festivals and other festivities and celebrations.

Juveniles who breach the secondary supply provisions will be subject to the Young Offenders Act 1994 and may be dealt with through alternative measures such as cautions or referral to the juvenile justice team.

Hon Peter Collier: That will do.

Hon COL HOLT: That will do? I have a bit more. I would love to get through it quickly, but I am very conscious of the questions that were posed to me.

Hon Sue Ellery: It would be helpful if, instead of introducing new material, you could concentrate on responding to the issues raised in the second reading debate.

Hon COL HOLT: I think I was. There were a lot of questions around secondary supply.

Hon Sue Ellery interjected.

Hon COL HOLT: I was just trying to help opposition members by answering the questions they raised.

There was a question about consent and the form of consent, which I have addressed. There were some questions about the intent of the law potentially reaching beyond what is intended, which I have addressed.

Hon Nick Goiran: I think you're doing a great job.

Hon COL HOLT: Thanks, mate.

Maybe in a minute I will get on to brandied fruits, because there was a question about brandied fruits potentially being captured under this legislation. Depending on the level of alcohol, it could be captured. I will get back to that.

In response to a question from Hon Sue Ellery, Leader of the Opposition, relating to recommendation 1 and the desktop assessment of advertising being undertaken by the Drug and Alcohol Office and the Office of the Mental Health Commission, I have some of the current research and analysis that they have done. The member's comments reminded me that it has been nearly a year since the government's response to the review was tabled. There are 141 recommendations in the review: some were accepted and some were noted, some are part of legislative change and some are part of regulatory change. That has prompted me to think about how I might report or update the house on those recommendations, because not all of them will come into this place as legislation—other things will happen. I will look into that and report back.

Recommendation 2 is the community impact statement. The current public interest provisions are considered appropriate. The introduction of a community impact statement would increase red tape and duplicate an existing process; however, there is an amendment proposed for stage 2 that will enable interested parties to advise the licensing authority of their views on a proposed licence by lodging a submission to support or oppose an application instead of lodging an objection for which a burden of proof is required. I think there is a difference between the definition of objections and the definition of submissions. There are prescribed grounds for an objection and a process that has to be gone through. The objection has to be made out by the objector. The burden of proof is on the objector and the objector becomes a party to the proceedings. There are onerous requirements to put in an objection—whereas a submission can be in support or against an application. A person making a submission is not a party to the proceedings. A submission simply expresses a person's point of view of what needs to be taken into account when assessing the licensing of a premise. It provides another opportunity for people to have input into the licensing system in a different way.

Recommendation 3 is advertising applications in local papers. This recommendation was not supported in the review, mainly because the requirements are already considered sufficient. Applications for new licences are advertised in *The West Australian* and applicants are required to do a letterbox drop to residents within 200 metres of the premises and display a banner on the premises. I think the nature of local newspapers is changing, and we have already seen some close down in regional areas. If people rely purely on newspapers, it is very hard to get their messages out. I think that a person is required to do a letter drop to people who live within 200 metres of the premises is a great way to inform those who will be most closely impacted by a licensing decision.

Recommendation 11 is advertising and promotion of liquor. Hon Sue Ellery and Hon Stephen Dawson raised this. There was quite a lot of discussion around this issue. It is a federal issue, as recognised in the response, and the Western Australian Liquor Control Act can control only advertising on licensed premises. I picked up that there are concerns around increased advertising of alcohol and other substances, especially targeting children. Hon Stephen Dawson talked about advertising on bus stops and bus shelters, and I think everyone is concerned about that. There is the potential for some of those advertising dollars to be massive and it will not go away, and I think we have to find a better way to minimise the message going to children and to increase harm minimisation. The Mental Health Commission's campaign is part of that and members should have a look at the website because there is a wide range of campaigns and many of them target young people.

Hon Stephen Dawson: Will you undertake to talk to your ministerial colleague the Minister for Transport about the bus stop and the bus issue?

Hon COL HOLT: I am happy to, but there is another little thing. I do not want get distracted for too long, but another vice is obviously gambling. I do not know whether members have watched television lately, but the amount of gambling advertising going on for corporate bookmakers is astounding. I am not sure whether members have looked on the sides of any buses lately, but there is a whole campaign around Community TAB, which is owned by the government, and it is doing its own advertising for its own reasons in those circumstances and often targeting a wide variety of audiences. I am happy to talk to the minister. There is also the question of how the balance is struck, again, between harm minimisation, tourism and business opportunities, which is what this portfolio is all about.

I move on to the alcohol intervention requirements and there was a range of discussions around those. Hon Robin Chapple had a series of questions about them. Although the Liquor Legislation Amendment Bill introduces the ability to send people to an alcohol intervention program, it does not specifically prescribe what that program will be, and that should not be prescribed in legislation, because we need to make sure that it is modern, uses new technologies and has new ways of teaching adults. All those things need to be implemented in those programs; therefore, the legislation is not so prescriptive on that. However, I agree that if people are to be sent off on an intervention program to educate them and change their behaviour, the program has to be effective and incorporate all those adult learning principles. The program has to be coordinated in a way that involves other agencies and messages are clear and strong, and we get a change in behaviour. I do not play a role in that necessarily, it is the role of the Mental Health Commission, but I will make sure that I deliver the message from this debate about our expectations.

I will cover some other things that may satisfy the member. The objective of this initiative is to enable police officers to issue an alcohol intervention requirement to a juvenile instead of issuing an infringement notice for minor liquor offences. Provisions contained in the legislation are a mirror of the cannabis intervention requirement provisions contained in the Misuse of Drugs Act 1981. Police will be able to issue an alcohol intervention requirement instead of an infringement notice, which will require the juvenile to attend a session within 28 days of receiving the requirement unless an extension is given by an A1 authorised person who is a delegate of the Commissioner of Police. An alcohol intervention requirement cannot be issued if the juvenile has already been convicted or been given an alcohol intervention requirement in respect of two or more minor liquor-related offences. The options are to issue an infringement notice or refer them to the juvenile justice team. A repeat offender will lose the option of the intervention program. If it is the first time that one, two or more minor offences are committed, the offender will have the chance to be educated, but after that they will basically face a fine or be referred to the juvenile justice team.

Hon Robin Chapple: For a person who has a series of prior convictions after this comes in, will the officer say that this person has already offended a number of times and therefore they won't go down the intervention path or would that happen only after the intervention path has been gone down—there have been three interventions and they haven't worked, therefore they won't get an intervention requirement? Once this becomes law, is there a provision to look at the past record of the individual or is it only after the law is enacted?

Hon COL HOLT: Before the legislation comes in, there is no other option for them, is there? In my opinion, this will cover those going forward and now there will be this option, which might be a better option than issuing an infringement. Maybe a person has gone through a series of infringements, but all they have really done is pay a fine and there has been no educational outcome. Perhaps at that point the best thing is to do an intervention—send them off to education and try to change the behaviour through education rather than have them just pay a fine. That option should be there.

Hon Robin Chapple: After a person has been sent to intervention two, three or however many times, are we saying we are giving up and we are going to give a fine? Is there a prescribed number of times that a person can try intervention?

Hon COL HOLT: The bill states it is for two or more minor liquor-related offences, but "two or more" obviously means a range of them. It is an interesting question, because if we think about the time the infringement or the intervention is delivered, there may not be that knowledge of what has happened in the past. In a practical sense, at the point of issuing an infringement or an intervention notice, the outcome is probably at the discretion of the police officers. There will be a range of training programs for police officers on the implementation of this. Perhaps I could get some information for the member about how the cannabis intervention program works in reality at a session and that will serve as a guide. I will read some more of my response because maybe it contains some answers; otherwise, I am happy to provide an answer later.

Police must ensure that an alcohol intervention requirement is provided to a responsible adult to enable the explanation of the requirements to be met. The exception to this is when the address or whereabouts of the responsible adult is unknown or it is inappropriate to do so; for example, the adult is intoxicated or affected by other substances. When a responsible adult cannot be located, the alcohol intervention requirement will be

forwarded to the police's drug diversion coordinator who will continue to attempt to contact a responsible adult. Juveniles who attend an alcohol intervention session will be informed of the adverse health and social consequences of alcohol use, the laws relating to the possession of alcohol and effective strategies to address alcohol-using behaviour. Once a juvenile has completed an alcohol intervention session, they cannot be charged with that offence, so they cannot be told that they will be pinged for the offence they were referred for. If a juvenile does not attend a session, they can be either issued with an infringement notice for the offence or referred to the juvenile justice team. The police and Mental Health Commission will be jointly responsible for the enforcement and administration of the scheme. Services that deliver the cannabis intervention scheme will be expanded to also provide for alcohol intervention sessions. These will be conducted by community alcohol and drug services in metropolitan and regional areas throughout the state. Based on the number of infringements and move-on notices issued to juveniles, WA Police has estimated that approximately 800 notices will be issued per annum. Based on the cannabis intervention scheme, it estimates that up to 80 per cent will attend that session. As with any new initiative, an assessment will need to be made and we will need to review how it is going and whether we are getting behaviour change.

Regarding Hon Robin Chapple's questions about how these will take effect in regional areas, especially the Kimberley, the current cannabis intervention requirement scheme has a network of contracted agencies that provide statewide coverage to deliver that scheme and the same ones will be used. These include seven community alcohol and drug services in regional areas: the Kimberley, with offices in Broome, Derby and Kununurra; Pilbara, with offices in Port Hedland and Karratha; the midwest, with offices in Geraldton, Meekatharra and Carnarvon; and the goldfields, with offices in Kalgoorlie and Esperance. That just about covers everywhere Hon Robin Chapple goes. Other participating community alcohol and drug services are in the wheatbelt, with offices in Northam and Narrogin; the south west; and the great southern. As well as these multiple locations, the CADS also provide outreach services to a number of communities. For example, the Kimberley outreach includes services to the Dampier Peninsula communities of Lombadina, Djarindjin, One Arm Point, Beagle Bay and Bidyadanga. There are also services in Fitzroy Crossing and surrounding communities, Balgo and the Kutjungka region, and Warmun, Halls Creek, Wyndham, Kalumburu and Oombulgurri, but obviously there is nothing at Oombulgurri anymore. The statewide network of cannabis intervention scheme providers also includes a further seven contracted agencies that deliver intervention schemes in regional and remote areas. I will get a lot of these names wrong, but the member will get them in *Hansard*. They are Bega Garnbirringu in the goldfields, Goldfields Rehabilitation Services, Jungarni-Jutiya Indigenous Corporation in the Kimberley, Milliya Rumurra Aboriginal Corporation in the Kimberley, Ngaanyatjarra Health Service in the Pilbara, Ngangganawili Aboriginal Health Service in Wiluna in the midwest, and the Ngnowar Aerwah Aboriginal Corporation in the Kimberley.

Sitting suspended from 1.00 to 2.00 pm

HON COL HOLT: I was referring to some of the services provided through the cannabis intervention scheme in the Kimberley and the providers that offer them. For the benefit of Hon Robin Chapple I will finish that off quickly. I named all the service providers; other strategies have been developed to ensure that remoteness does not exclude people from the cannabis intervention requirements by participating in a cannabis intervention scheme. This includes providing flexible approaches towards facilitating attendance in regional and remote areas—for example, extended time periods for attendance, as we know, so we have to make some allowance for that, and the member will be well aware of those sorts of challenges, especially those challenges around the wet season and community access. Other initiatives potentially include the arrangement and utilisation of telephone sessions. We have to weigh that up against the effectiveness of the program. Interpreter services are also available for people from non-English-speaking backgrounds and for the hearing impaired. I have received a little further advice around the intervention orders. If they have had two of a previous or similar offence, they get two strikes and the third time they cannot get the intervention notice. At the point of issuing that intervention notice the police will not know, of course, but it will go back into the system and be picked up—"Hang on, these guys have already had two"—and that has to be an infringement, and they go back through the process. Some examples of minor offences to which this will apply are street drinking, park or reserve drinking, entering and remaining on licensed premises unaccompanied, and possession of liquor in a public place. I hope that has helped the member.

I will now move on to some of the other queries that came in. Hon Ken Travers talked about the application process, and he is right: at the moment, the planning process is through local government and then it often goes through a lengthy process through the director of Liquor Licensing. This legislation provides for that to be done in unison to allow for a potential quickening of the process, which is what Hon Ken Travers commented on. The objective is to streamline the application process, enabling the director of Liquor Licensing to accept applications without the planning approval being provided at the time of the application, so we have a parallel process. Discretion rests with the director of Liquor Licensing to have planning approvals submitted at any time

during the application process. The director may determine in some instances to have planning approvals submitted at the time of lodging the application. Planning approval will have to be provided to the licensing authority prior to the granting of a licence, so even though there are parallel processes, they do not get a licence until they get planning approval anyway. Due to the varying licence types and proposed manners of trade, it is difficult to quantify the reduction in time expected, but by enabling parallel processes there will definitely be savings in time. Hon Ken Travers also talked about toilets, and I have some sympathy for his argument. I tend to agree with him; the building code should be enough for determining the toilet requirements in licensed premises. I am not sure why licensing gets involved, but I am happy to take that up. He also talked about small bars and the fact that there is a little anomaly in the definition of the number of people there can be in a small bar. At the moment it is defined as 120 persons, which takes consideration of the bar staff and other staff on the premises. It needs to be 120 patrons, and that will come in in stage 2. The main reason for that is that we are going to create a new licensing category for small bars. At the moment we are relying upon the subcategory of tavern licence, from memory.

Hon Ken Travers is also right about the change in our entertainment scene because of the small bar precincts; it has been outstanding. I do not go out that much, but I got dragged out by some of my staff to experience the small bar scene, and I was really surprised; I need to get out more! I was incredibly pleased with what I saw and experienced. In fact, they are not full-on drinking dens; they are actually part of a precinct, and the aim is to move around in them and experience what each one has to offer and to compare them. The member does not like that idea?

Hon Simon O'Brien: You know what that was called in the old days? A pub crawl!

Hon COL HOLT: A pub crawl, yes. I got dragged out on one!

Hon Simon O'Brien: Nothing new!

Hon COL HOLT: Moving on, Hon Sally Talbot asked about public interest tests applying to liquor licensing. That is the normal practice now and that is what occurs. The licensing authority must have regard to the objects of the legislation when determining whether the grant of an application is in the public interest. It must consider factors including the harm or ill-health that might be caused to people or any group of people due to the use of liquor; the impact on the amenity of the locality in which the licensed premises or proposed licensed premises are to be situated; and whether offence, annoyance, disturbance or inconvenience might be caused to people who reside or work in the vicinity of the licensed premises or proposed licensed premises. As I said before, there will be an amendment in stage 2 that will allow for submissions as well as objections.

Hon Sally Talbot also talked about recommendation 141 of the review, and I am happy to answer her question. It was not supported at the time because the Liquor Control Act contains numerous opportunities for the licensing authority or the minister to undertake consultation with stakeholders or to establish advisory committees, as we did through the review.

Hon Alanna Clohesy had some questions about cellar doors and how they might operate. This is about the additional or collective cellar doors; I will deal with those first and I am happy to take some interjections if I am not quite up to the mark. Producers must already have a licence; if they want to open another cellar door within their wine region, they basically need an extended trading permit to do so. The review committee considered this as important for smaller wineries that may be off the beaten track and might not have the resources to keep the cellar door of their winery open all the time. They may not get enough traffic through, so it gives them the ability to buddy up with others and open a collective cellar door, but they must have a permit in the first place to be able to do that. It can only be within their wine region and because they want to preserve the integrity of what their wines have to offer—for example, the Margaret River wine region, the Cape Geographe wine region, the Swan Valley region or the hills wine region; there are about nine of them across the state. That opportunity is also afforded to beer-brewing operations, although they do not have defined regions in that sense; Australian wine regions have an approved regional description, if you like, but beer producers do not have that, so one cannot say that it is restricted to their region because there is no such thing as a beer region. That is why it is restricted to the local government of the area. The risk is, of course, that they become pseudo-liquor stores in other places, but that is not really the aim. This is about giving them a business development opportunity and allowing them to put their other unique, niche beers into the market.

Hon Alanna Clohesy: Coming back to clause 3, which states you are only allowed to have one licence—this relates to both wine and beer—if you have a brewery in the Swan Valley and a brewery in Margaret River you have to have two licences. Are you eligible to participate in this cooperative arrangement?

Hon COL HOLT: They will get an extended trading permit. It is not a new licence. I will get some advice, but it is my understanding that if someone has a licence for their City of Swan operation, they can open a collective

cellar door because of that permit and that becomes an ETP. If someone has one in, let us say, the City of Busselton, they should be able to open one there. I have had some advice, and that is correct.

Hon Alanna Clohesy asked a question about cider. Cider is defined as a wine under the Liquor Control Act, so it is governed by the same provisions. "Wine" includes a liquor of a type known as mead, cider, cyser, or perry. The provisions that relate to wine producers apply to cider producers. Hon Alanna Clohesy may have touched on the subject of distillers, by saying that no consideration was given to them in the Liquor Legislation Amendment Bill 2015 or in the review. That was because not enough people approached the review to suggest changes needed to be made. I visited quite a few distillers, and there is some uniqueness around their ability to supply samples in mixer drinks. I have some sympathy for that, and I will definitely look at it and see what can be done in stage 2 of the legislation.

A question was asked about the proposed amendments around order forms that will enable orders to be taken by phone or over the internet. The previous requirements were that the phone or computer server had to be located on the production premises—at the winery—but people may not be there the whole time. It just made sense to allow them to take orders from a phone or via the internet while they are away from the production business. The alcohol still has to be distributed from the production side of things, naturally. If producers go to a show or a trade show, they have to get an extended trading permit that is classed as a licence; so they are not promoting or selling their products away from licensed premises, if you like. If they have an order form while they are giving samples out at a show and they have an ETP to do it, that does not fall foul of the law. Is that okay with Hon Alanna Clohesy?

Hon Alanna Clohesy: Yes.

Hon COL HOLT: Hon Adele Farina talked about Red Bull, which is not part of this bill but I will provide a short answer. The director of Liquor Licensing is guided by the Department of Health on that matter. The director does not prohibit the sale of any energy drinks on licensed premises because he cannot, as Hon Adele Farina pointed out. But a condition is imposed if alcohol and an energy drink are mixed. The condition that prohibits the mixing of alcohol with energy drinks is only imposed on late-night venues—that is, those trading after midnight. It is a fairly narrow application, but the ban condition is only applied to an energy drink if it is mixed with some sort of alcohol. Hon Adele Farina was probably right when she said that is why the director cannot ban energy drinks.

Hon Adele Farina had a question around secondary supply. Proposed section 122A(3)(a) states —

> … the person must not supply the liquor —
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> (a) if, at the time that the parent or guardian of the juvenile gives consent, the parent or guardian is drunk; or
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> (b) if the person is drunk; or
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> (c) if the juvenile is drunk; or
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> (d) if the person is unable to supervise the consumption of the liquor by the juvenile; or
>
> (e) in circumstances prescribed by the regulations.

Hon Adele Farina asked whether there was any idea what proposed new paragraph (e) may cover in the future. I think that provision is included and there has been no intent to define it because we just do not know what will come up. Similar provisions are contained in section 3 of the Liquor Control Act, where a definition of liquor is provided that reads —

> (a) a substance intended for human consumption which at 20°Celsius contains more than 1.15% ethanol by volume, or such other proportion as is prescribed; …

We talked about that description this morning. The definition continues —

> (b) any other substance prescribed as being liquor for the purposes of this Act; …

That is the current definition of liquor in the act. I will give members a very recent example of how that was used in an unforseen circumstance to explain why those sorts of provisions are in the bill. This provision was recently used to prescribe powdered alcohol, which has been in the news more recently, as liquor for the purposes of the act. That means it can be sold only in licensed premises to persons over 18 years of age. It can be declared as an undesirable product, prohibiting it from being sold in Western Australia if we so wish. That fairly open provision allows the flexibility to deal with unknown circumstances that come along.

That is the end of my contribution. I thank members for their contributions and, of course, their support for the bill. My information is that if we can get this bill to the other house, we will get it proclaimed before school leavers week and the advertising can begin.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Committee

The Deputy Chair of Committees (Hon Brian Ellis) in the chair; Hon Col Holt (Minister for Racing and Gaming) in charge of the bill.

Clauses 1 to 19 put and passed.

Clause 20: Section 122A inserted —

Hon ROBIN CHAPPLE: I have a few questions around clause 20. I had a discussion with the minister outside the chamber that we were going to go down this path, so I am a bit surprised that there was some consternation.

Anyway, I suppose the issue in this clause comes down to the word "liquor". The definition of liquor, as we have already identified, is defined in the Liquor Control Act 1988, which states that liquor is —

> (a) a substance intended for human consumption which at 20°Celsius contains more than 1.15% ethanol …

The issue I really want to get on the record and have clarified is that those commodities that are used, say, for example, for a brandied dessert and those sorts of things do not require the permission of another parent to be able to be provided in the course of food or desserts, or even if it is a European-style breakfast, where those sorts of compotes or brandied fruit are provided.

Hon COL HOLT: As I touched on at the end of my reply to the second reading debate, the act states —

> ***Liquor*** means —
>
> (a) a substance intended for human consumption which at 20° Celsius contains more than 1.15% ethanol by volume, or such other proportion as is prescribed; …

I understand the member's difficulty. Sometimes we may not know what a dessert contains. If it is defined and it meets that threshold, technically, it is liquor. The intent of this bill is not to gain permission—that is sensible and it will be a complaint-driven problem if it is not sensible—to offer a liquored fruit or a liquored chocolate. People will not need to get permission to serve these items. I would suggest that if someone served 20, 30 or 40, there could be a problem of irresponsible service of alcohol. If a complaint is driven from the circumstance of supplying too much of it, the parent or the guardian of that person will have an opportunity to lodge a complaint. In 99.99 per cent of circumstances, supplying a juvenile with liquored fruit or chocolate or a drink during a religious ceremony will not be an issue under this legislation. It is not the intent. The intent is to give the parent or the guardian some options during the irresponsible service of alcohol to a juvenile.

Hon ROBIN CHAPPLE: I refer to the case of a family that has a no-alcohol policy; that is, they do not drink and they do not expect their child to drink. If that child goes off and consumes a dessert and then returns home to mum and dad and says, "I had a great dessert, which contained alcohol and it was lovely", the parents then think they can use this provision to go after the parent who supplied it. I really want to make sure that this provision will not be used incorrectly. In the minister's reply to me in this chamber, could he give some guidance to the courts in the future?

Hon COL HOLT: There are two sides to this. I understand the member's point. How does that family manage the situation now if their child goes off and potentially consumes alcohol? They have to deal with it now. The member asked how we could ensure that parents do not use this provision as a way of enforcing a punitive outcome on people who are doing their normal stuff. It is definitely not the intent of this bill to reach into the lives of those families to bring about punitive measures in those sorts of circumstances. It is really about alcohol being served irresponsibly to a juvenile in someone's care. It gives parents the ability to manage that at the other end of the scale, which is about the irresponsible service of alcohol. I guess the courts themselves and whoever lays the charge, which is the police, would need to make a decision about the likely outcome of a prosecution and the sort of punitive measures around it. It is not the intent of this legislation for those sorts of situations to prevail.

Hon ROBIN CHAPPLE: Proposed subsection (2)(a) states —

> is the parent or guardian of the juvenile; …

Specifically, I refer to Indigenous communities and the determination of who the guardian is. The Guardianship and Administration Act 1990 states —

> ***Guardian*** means —
>
> (a) a person appointed as a guardian (including an alternate guardian) under section 43;

In many Indigenous communities children do not live with their parents; they live with somebody who is looking after them. There is no formal guardianship. How do we deal with a situation in which a child may go to live with another family which will be inadvertently, for whatever reason, providing alcohol but they are not an official guardian under the terms of the guardianship act? We know that in many cases children in Indigenous communities move around, yet there is no formal process of guardianship.

Hon COL HOLT: Often uncles, aunts and grandparents form a pretty unique situation in those circumstances. I am assuming that the member is talking about a juvenile who went to a pseudo guardian and got permission or did not get permission to consume alcohol. This will be complaint driven. If that child goes off and consumes alcohol, who is the complainant? Who will drive the complaint and say, "Someone served alcohol to this juvenile"?

Hon Robin Chapple interjected.

Hon COL HOLT: I am trying to look at the other side of it. I understand what the member is saying. That situation will be complaint driven. Who will drive that complaint in those circumstances, which is probably a really good question, because of the shared responsibility? A child may be living with their grandparents. Perhaps the member can describe another way that it works. It will be complaint driven, and who is going to follow up on it to get a prosecution?

Hon ROBIN CHAPPLE: I understand that part of it. Say, for example, that I am acting as carer for a child and another child comes to me and I am caring for this child but I am not the guardian of that child in any way, shape or form. If a party is going on, will I be caught as the responsible adult because I do not have any formal relationship with the child? The parents of the second child coming to me might be teetotallers or whatever else.

Hon Col Holt: Are they drinking alcohol at your house?

Hon ROBIN CHAPPLE: Yes.

Hon Col Holt: I would suggest you would need to get permission before you served them.

Hon ROBIN CHAPPLE: But I am not a guardian or a parent of the juvenile.

Hon COL HOLT: If the children are visiting the member's property, he cannot serve them alcohol until he has permission from a guardian. If the member cannot establish who their guardian is, I suggest that he cannot serve them alcohol.

Hon LIZ BEHJAT: As the minister knows, I have a vested interest in clause 20, so I want to be absolutely clear on this ground. The penalty under proposed section 122A(1) and (2) is a fine of $10 000. Can the minister confirm whether that is the only penalty that will be available to, presumably, the police laying the charge? Someone my age who is the responsible person, parent or guardian might have the capacity to pay a fine of up to $10 000, although looking at my bank account I seriously doubt it. If in the circumstances I am referring to, an 18-year-old is the responsible person in charge of the 17-year-olds, will it be open to the person dealing with the charges to perhaps issue an alcohol intervention requirement with the purpose of that person doing an alcohol intervention scheme? Given it could be someone inexperienced in the responsible service of alcohol, I would have thought they would be given an educative process on the problems involved in the excessive consumption of alcohol because that might be a lot more effective than a monetary penalty.

Hon COL HOLT: The alcohol intervention requirements are for juvenile offenders. If a person is over 18 years of age, the court will not prescribe that even though they may be inexperienced. The penalty is up to $10 000 and the level of the fine will be at the court's discretion. I guess as courts do, the court will take into account a range of circumstances in setting that punitive measure.

Hon LIZ BEHJAT: Has no consideration been given to allowing an AIR to be issued to a person older than 18 years?

Hon COL HOLT: This legislation, which mirrors the cannabis intervention scheme, is for juveniles.

Hon LIZ BEHJAT: The minister dealt with consent in his second reading speech, so I guess I will take his advice in my circumstances and ensure that there is written consent. I still think that will be wide open for interpretation. As the minister quite rightly asked: what is a text message from a parent? We will leave that to others to decide at that time, I suppose. I refer specifically to proposed section 122A(3)(d), which states that the person must not supply the liquor if the person is unable to supervise the consumption of the liquor by the

juvenile. I think Hon Adele Farina in her contribution yesterday raised the specific issue of a person responsible being at a party and everyone else drinking, but the responsible person falls asleep and the juveniles continue to drink. What will happen in those circumstances? Will the responsible person have to lock up the liquor before they fall asleep?

Hon COL HOLT: The adult is the responsible person, so they are responsible for the alcohol. They have to be responsible for the people in their care at the time. I suggest that if they are concerned that the people in their care, in that sense, will continue to drink, they need to think about how they manage the alcohol provision and availability to them. It comes back to the fact that it will be complaint driven; the onus will come back onto them, so they need to be prepared to act responsibly as someone over 18 years of age.

Hon LIZ BEHJAT: Proposed section 122A(3)(e) states that the person must not supply the liquor in circumstances prescribed by the regulations. As we know, we are yet to see the regulations. I assume that the minister has done some work on the regulations in anticipation of the passage of this legislation. I wonder whether, for the purposes of our records, the minister might be able to give some examples of those circumstances.

Hon COL HOLT: As I concluded in my reply to the second reading debate, this is for futureproofing a potential occurrence under these provisions. We may not know what they could be. I cannot give the member examples of what can occur in the future but I gave examples of how they occur in other parts of the act. An example I used was powdered alcohol, which is a new thing on the horizon. We were allowed to deal with it under the existing act through these sorts of provisions. I cannot give an example now of what might occur because it is about futureproofing our ability to respond.

Hon LIZ BEHJAT: This is my final question on this clause and, indeed, the bill. We know that this year—I think 23 November is the final date for the Western Australian Certificate of Education exams—everyone will be heading off to schoolies week and most of our year 12 students will be leaving school sometime within the next three weeks for their study vacation and to commence their exams. What work has been done between the minister's department and, say, the Department of Education about advertising these new regulations on the basis that this legislation may get through in time for this year's schoolies? It concerns me because, as I think someone said yesterday, not very many 18-year-olds watch Parliament or read *Hansard*. How will the general public learn about these new regulations?

Hon COL HOLT: I should have mentioned that before; thank you for reminding me. The Department of Racing, Gaming and Liquor has been working with the Mental Health Commission in anticipation of the bill being passed. We have a broad strategy. We will kick on as soon as assent comes. I know that there are some challenges around getting the message out to schoolies, but it also provides a great opportunity to raise awareness of the new laws because of the potential impact during leavers week. Some of the strategies are to use a broad mix of radio statewide, which will also reach friends of leavers and cover the issues being discussed in Parliament about 18-year-olds, and posters will be placed in bottle shops and various other locations, potentially police stations and community networks. Digital advertising on Facebook, YouTube, news sites and various other digital platforms will direct people to the RGL website or the support line. We will use paid search—that must be some sort of advertising site—to ensure that people find the correct information when they search on Google to find out all about various issues. Paid search bumps it up in the search engine. Information will be put in our school kits once we know the legislation is going ahead—time lines are tight. This will go through our school drug education and road aware network and is about providing parents with information about alcohol. There will be frequently asked questions and other key information on websites and a promotion of changes via a network of social media pages, including Facebook and police. We will feature changes on our homepage and direct people to other information and obviously the whole of government needs these processes, including police. Of course, there is also the unpaid media. We need to make the most of all opportunities to promote this in our communities so that everyone is well and truly aware of it. We need to kick off programs as soon as we can.

Clause put and passed.

Clauses 21 to 25 put and passed.

Clause 26: Part 7A inserted —

Hon ROBIN CHAPPLE: I turn to proposed section 172E under which an alcohol intervention can be initiated. The minister said that these interventions will be parallel to the current drug-related interventions. If a juvenile has been charged with a minor alcohol-related offence and we are saying that there is a three-strikes process, and that juvenile has also been charged with, say, a cannabis offence and is subject to the same AIR, will they face three offences under the cannabis issue and three offences under the alcohol issue? On the other hand, will they

be cumulative or separate offences if the offender has one drug offence and one alcohol offence and this is the third offence but only the second alcohol offence?

Hon COL HOLT: They will be treated separately, because this clause is about alcohol intervention. I said previously that the networks and education processes that have been established through the cannabis intervention program will be useful vehicles for the alcohol intervention program. In a sense, it is about the implementation of educational processes, whereas we are clearly talking here about alcohol, so they will be kept separate in that sense.

Clause put and passed.

Clauses 27 and 28 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by **Hon Col Holt (Minister for Racing and Gaming)**, and transmitted to the Assembly.