LIQUOR CONTROL AMENDMENT BILL 2018

Second Reading

Resumed from an earlier stage of the sitting.

HON COLIN HOLT (South West) [5.08 pm]: I had been talking about red-tape reduction, and I have now gathered my thoughts.

One clause of the bill relates to licensed clubs. Previously, if a club wanted to apply for a licence it had to supply a copy of its constitution to the now Department of Local Government, Sport and Cultural Industries—the former Department of Racing, Gaming and Liquor. What for? We had a department of commerce that checked all that sort of stuff. If a constitution was checked off by the department of commerce, why did it have to be lodged with the then Department of Racing, Gaming and Liquor? What did it do with it? Did it check it to make sure it was correct? What a ridiculous joke. That has been removed, which is a sensible idea. All it has to do now is provide evidence that the club's constitution is acceptable. That is a good idea. Why have we not gone a bit further and talked about how we stop doubling up on all these requirements?

I have a letter from a licence holder that he received from the Department of Local Government, Sport and Cultural Industries, setting out the requirements for an impending premises inspection. The inspector will obviously look at things relating to the licence and make sure that the licence holder complies with his licence and does not do things that he should not be doing. I have no problem with that. The letter to the licensee states —

> The Inspector has the delegated authority to impose work orders to ensure compliance with the other section.

That relates to some of the licensing. It continues —

> *keep the premises and all fittings and fixtures in the premises thoroughly cleansed, in a hygienic condition and in good repair.*

The department will send out an inspector to check on not only the licensing, but also that the premises and all fittings and fixtures on the premises are thoroughly cleansed, in a hygienic condition and in good repair. The letter continues —

> The inspector will examine such things applicable to your class of licence, but not limited to, the following:
>
> - The glass washing machine will be tested with a digital thermometer and must maintain a temperature of not less than 75° Celsius throughout the entire hot rinsing procedure. Please ensure all glass washing machines and hot water systems are turned on and fully operational at least 30 minutes before the inspection time.
> - All plastic glass racks must be undamaged and rust free.

The inspector from RGL is carrying out this inspection. It continues —

- The carpets and floor coverings of the premises must be clean and undamaged.
- The paintwork of the premises shall be in good condition and not flaking.
- The toilets must be clean and in good repair which includes privacy latches on all cubicle doors, self-closing devices fitted and in working order in the main toilet door and all air lock doors.
- All refrigerator and cool room door seals must be cleaned and not damaged.

This is the inspector for liquor licensing, who has delegated authority. The letter continues —

- Smoke alarms in accommodation areas.
- General fire safety throughout the premises.
- All fluorescent lights within the food preparation and storage areas must be fitted with protective covers or have shrink wrapped fluorescent light tubes.
- The flooring in all bar areas must be clean, adequately covered and either sealed with an approved epoxy resin finish or covered with a commercial grade vinyl floor covering.
- All egress points will be examined to ensure compliance with *Health (Public Buildings) Regulations 1992* as amended.

We have to ask: who is in the best position to carry out that inspection? Do officers from the Department of Health or local government health inspectors come along and check the same thing? Is it really the role of a licensing

authority to check on the temperature of a glass washing machine? Really? Is it their role to say, "I don't like the way the paint is peeling. It needs to be repaired." Seriously? We need to take some steps to reduce red tape around clubs. This letter was sent recently. It does not have a date on it. It was provided to me in confidence.

Hon Alannah MacTiernan: Sorry, member, but I was distracted by my good colleagues. You were concerned about the detail of the requirements. I understand the red tape. Which class of licence was this going to?

Hon COLIN HOLT: I do not have that. I have a copy of a letter generously given to me, setting out that the RGL inspector or the inspector from Local Government, Sport and Cultural Industries is coming out to do the inspection. Why is that inspection needed when the health department and local government authorities will probably do the same thing? Good steps have been taken in one part and then we introduced other parts of the legislation that Hon Tjorn Sibma spoke about, yet we have not concentrated on fixing that sort of stuff from a departmental viewpoint. If an inspection is going to be carried out, the health department or the local government authority should do it. If the local government authority is going to handle it under the health provisions, I am not sure why RGL is going to do it. It is a point of frustration for everyone in the industry.

I will keep talking about what this bill entails. As I said before, that balancing act around harm minimisation is a real challenge as it reduces red tape, encourages tourism, respects people's rights and also facilitates special events at all levels. Hon Tjorn Sibma also touched on that in his contribution. This is the challenge of the legislation. It is very difficult to put it into place.

Another thing that came out of the review was this idea of reducing the delivery of liquor to juveniles. Those members who were here when the first tranche of the bill was introduced would remember that we had a long discussion about secondary supply to juveniles, which received the support of the house. Questions were asked about how it would be enforced and those sorts of things. That sent a signal that it is not okay to provide liquor to juveniles without the permission of parents and guardians. Up to this point, someone can order liquor over the internet and get it delivered to their home. If no-one is home, it is left outside or if someone aged 15 is home, there is no real requirement to check that that person is of legal age. Some of the provisions include a head of power, so it is about regulation. We need the minister to tell us what those regulations could look like. I understand that the couriers or Australia Post drivers who deliver the liquor would face some challenges if they have to check the name or age of a person every time they drop it off but we have a requirement to not supply alcohol to juveniles or people under the age of 18. When the minister replies, we need to know what some of those regulations will look like.

Obviously one of the more contentious parts of the bill relates to limiting packaged liquor outlets, especially the larger ones. We want to hear from the minister in her reply about the need for this policy. Although I can understand why we cannot enshrine some of the criteria in legislation, and I know it will be enshrined in the regulations, we need some explanation of what those regulations would look like and whether they will deliver the policy outcome that we are asking for. During the debate on this bill, we have the ability to ensure that we get on the record exactly what policy outcomes we are looking for and the measures we need to take to try to achieve it. If regulations come in and this house decides that they do not go anywhere near delivering that policy outcome, we have the ability to disallow them based on comments and commitments made in this house by the responsible minister on behalf of the government. I think we need some explanation about what the policies are trying to achieve. We need some indication of what those regulations will look like. We need some outline of the consultation process that will occur to get to that point. After having had discussions with industry, I know it is committed to some of that consultation, which is why we need to put policies into regulations. This is our one chance to scrutinise the legislation. We need to get in *Hansard* exactly what is sought to be achieved. With regard to the policy outcome, minimising harm is the line and therefore part of the objects of the legislation. As pointed out earlier, it is a fairly blunt instrument to seek to minimise harm through access and availability. That is a question in itself.

One of the provisions in the legislation is about so-called sly grogging events that happen in places where there are liquor restrictions, including Aboriginal communities gazetted as dry communities and other parts of the state where there are restrictions on accessibility to packaged liquor. When I was Minister for Racing and Gaming we went to the Kimberley quite a bit and talked to Aboriginal communities that were struggling with this and talked to other local communities and the local police. I must say that I had a lot of sympathy for how we tackled sly grogging, which was occurring. The police had limited powers to stop and search or search and seize or whatever we want to call it. The response in this legislation is to enable some heads of power to put into regulations how we might address this issue. I think that is the right way to go. We need some flexibility in this space to deliver on this policy outcome. It has to be in regulations. Again, it would be nice if the minister could explain the policy outcome and give some indication of what the regulations could look like to achieve that outcome.

I notice one of the clauses has a change in definition from "believe" to "suspect". From memory, that was not referred to in the second reading speech; and I have refreshed my memory very recently. It would be useful for

this chamber to hear why there is a change in definition. The minister can explain in her reply to the second reading debate or during debate on that clause in the Committee of the Whole stage; I do not mind. It is a really important point and a definite change in approach and in policy. We need it defined on the floor of the chamber to ensure that when it is interpreted in a court of law or in application, the intent is very clear. I encourage the minister to address that definition as well as the policy outcome.

I want to touch on one of the other contentious issues around freeing up regulations to encourage pop-up bars and pop-up drinking activities. Occasional licences are a very useful tool and a very useful licence category for much of our community. When I was the minister, I used to get a lot of phone calls saying, "My occasional licence is being held up; we want to hold a one-off event next week; how about getting it moving quicker?" That is very difficult for the minister to do because we have an independent licensing authority. Nonetheless, there were a lot of instances in which we would get a phone call saying, "Our occasional licence needs to be approved because we want to run an event." In 99.9 per cent of cases, those events are well run and low risk, and do not cause too many problems. An occasional licence is perfect for it. As we know, in this house, we often make laws for less than one per cent of the population. However, we have to be careful about how we make laws for the one per cent of the population so that it does not restrict or have an unnecessary effect on the 99 per cent. That is one of the struggles with this type of liquor licensing legislation. We received requests to put in legislation some restrictive terms around occasional licences, but I thought that would be smashing a walnut with a sledgehammer; it goes too far. We have to find a way of managing pop-up bars with occasional licences that do not do the right thing. The media has reported a lot lately how a pop-up bar has operated with the capacity to serve 5 000 patrons—that is the information I got—rolled over for extended periods, all in the name of festival activity. I have some sympathy for the bricks-and-mortar operators in some of this space, who go through the high-risk categories of taverns, nightclubs or hotels and invest in their buildings to bring them up to compliance, as I have just read from what was the department of racing, gaming and liquor. It seems that we have gone a little too far in allowing some of these pop-up bars to operate and take off the cream, and in some cases not pay their suppliers. We have heard how people have skipped town and not paid entertainers or suppliers. Yet if a bricks-and-mortar operator did that, we would be right onto them telling them that they cannot have a licence any more. I understand that it is very, very difficult to address those issues in legislation, but I think this house should demand a greater level of assurity that we will fix that stuff. The community also wants greater assurance that it will be fixed.

A director's policy has been talked about to help address that. It is a good idea, but how do we as a Parliament have confidence that the director's policy will not change a week later to go back to the issue we have just seen play out? We need some rock-solid guarantee on the floor of Parliament to ensure that we are developing a director's policy that the director will absolutely follow. If the director's policy is changed in the future, perhaps a ministerial statement can be made advising the Parliament that the policy is being changed and the reasons for the change, and that will allow scrutiny. Maybe that is where we will get to with some of this stuff. It will be difficult for the minister to do that. I would like to see the minister table in this Parliament the draft, the advanced draft, the almost-next-to-final draft or whatever it is, of the director's policy, indicating at exactly what stage that policy is at, so that everyone can see it. I know the government has spoken to many in the industry but this is our chance to influence this issue.

We have often talked in this place about regulations and how there is a level of trust that the regulations will do the right thing. However, we need to know that the director's policy in this space will deliver the right outcome for the people of Western Australia, particularly those impacted, including police and health workers, by some of those operators. I have received reports from the police that those venues took up a lot of resources; yet the same scrutiny is not applied to who is running them as applies to some of the high-risk venues. That is a real challenge and it is worth pursuing until we hear what the government has to say and how it will reassure this house as well as many other people out there who are interested in that part of the debate.

One of the arguments is that bricks-and-mortar organisations can operate a pop-up bar as part of an event, but the feedback I have from them is that they have often invested millions of dollars in their bricks-and-mortar venue and they want to promote that so that it can be successful. Why would they stretch their resources further to open up a remote temporary bar? Some of them will because they will see the opportunity in it, but most of them will not. I do not think there is an argument in saying that they can do it. I do not buy that. They could well set up a pop-up bar that also does the wrong thing; I do not know. I do not think saying that they can do it cuts as an argument. This is about the balance between providing a tourism event experience with alcohol and minimising harm, which is one of the objects of the act. We have to find a way to meet that balance while promoting investment in the other good parts of the liquor culture in our state. An example is the proliferation of small bars, which, in my mind, has added greatly to this state and the community.

I do not know that I want to go much further. I see the need to go into Committee of the Whole House. I have some points to clarify about each of the clauses. Some of the points were not highlighted in the second reading speech. I accept the limitations of a second reading speech, but we need to ensure that on those clauses that need

clarification, the government outlines and defines the policy outcomes and also gives some indication about the regulations that will support this legislation. With those few words, I look forward to further contributions and to perusing the bill in further detail during the committee stage.

HON ALISON XAMON (North Metropolitan) [5.31 pm]: I rise as the lead speaker for the Greens on the Liquor Control Amendment Bill 2018. As has already been mentioned by the previous speaker, we are dealing with a fairly broad bill. It deals with a lot of different aspects of liquor control. This piece of legislation is a bit of a mixed bag because it sort of incorporates elements of liberalisation at the same time as it contains harm-minimisation measures. As has been said, the bill will implement some of the remaining recommendations arising from the 2013 independent review. It also includes some clauses from the previous government's 2016 bill and introduces some new material. It is pertinent that the minister with carriage of the bill, the Minister for Tourism, is also the Minister for Racing and Gaming, because I think that has well and truly influenced this piece of legislation, which strives to allow a more tourist-friendly hospitality culture to be incorporated within the management of liquor outlets.

There is quite a lot of relevant Greens policy pertaining to the substance of this bill. The Greens' main concern with liquor control bills is always to examine whether they are likely to increase or decrease harm. In fact, our policy refers explicitly to identifying alcohol's association with death, hospitalisation, road crashes, crime and violence. Our policy refers extensively to needing an evidence-based harm prevention or minimisation approach to alcohol. It proposes, amongst other measures, that there be an independent regulator of liquor licensing and alcohol sales; local community input to decisions, including the number of outlets in an area; a minimum floor price; and a tiered volumetric tax. Our policy is quite detailed in supporting local communities to have input to liquor licensing decisions, including, importantly, the number of outlets in their area. Insofar as it is compatible with those principles, the Greens also support small bars and the creation of a vibrant hospitality culture.

There has been quite a lot of commentary on this legislation. We have also done our due diligence in speaking to quite a number of stakeholders. I think it is important to put on the parliamentary record a variety of views on this legislation. I note that an article in *The West Australian* in February this year written by Dan Emerson titled "WA health sector alarmed by proposed new liquor laws" states that Western Australia's health sector has warned that tourism and economic considerations should not have equal weighting with concerns about alcohol-related harm when considering liquor licensing applications. I note that Professor Steve Allsop, whom I hold in very high regard, from the National Drug Research Institute said that health needed to remain as the primary issue. The president of the WA branch of the Australian Medical Association, Dr Omar Khorshid, said that it was really important that legitimate concerns by health authorities and police were not diluted by having a purely economic focus. There was concern from those stakeholders.

In another article in *The West Australian* written by Michael Thorn, who is the chief executive of the Foundation for Alcohol Research and Education and was also previously the director of the Office of Crime Prevention, titled "Weaker liquor laws guarantee one thing: greater social harm", he expressed a number of concerns. The article cites Professor Steve Allsop as stating that there is no reason for liquor licensing laws other than the public health considerations. The article also raised the concern that increasing the availability of alcohol would increase harm, irrespective of policies intended to improve vibrancy and tourism and to cut red tape. It pointed out that alcohol is a risk factor in more than 200 health conditions, is a risk factor in domestic violence and is responsible for more than 590 deaths in WA each year. He pointed out that he cautiously supported the small bars reform in the mid-2000s when he was the director of the Office of Crime Prevention in the hope that, despite the evidence, changing drinking environments might reduce crime, but he was of the opinion that it had not worked and he should have known better.

I also point to correspondence from the McCusker Centre for Action on Alcohol and Youth in March this year. I presume that most, if not all, members in this place have received similar correspondence. The correspondence makes it clear that the centre strongly supports restrictions on packaged liquor outlets, the sly-grog provisions in the bill, the provisions that aim to prevent delivery of online or phone liquor orders to juveniles, and police and health input to the licensing process. It goes on to state that the centre is of the view that police do not intervene as much as alleged. The centre wants monitoring of the public interest assessment removed for low-risk venues. It makes the point that one low-risk venue is one thing, but a proliferation of them is quite another. As an aside, I had some conversations last week with a particular local council that is also addressing the issue of small wine bars. It is very supportive of small wine bars and sees them as an important way to increase local vibrancy. But, at the same time, it has said that there are genuine planning considerations. Of course, the concern is that if there are too many small wine bars in a particular location, it has the effect of perversely dampening activity within particular precincts during the day. The council talked about the need to ensure that there is the right mix of cafes, shops and small wine bars. Hopefully that vibrant activity will happen pretty much all of the time, or most of the time, rather than effectively killing off a precinct by having it active only in the evening.

I will go back to the letter from the McCusker Centre for Action on Alcohol and Youth. The centre went on to say that if the CEO of Tourism were to have input into licensing applications, it should be of lesser weight than the input provided by police and the health department. It also wants to require the CEO's evidence to be robust.

In April this year, the Greens met with Endeavour Drinks Group, a group that includes Woolworths and Dan Murphy's. It made it very clear that it particularly opposes clauses 36B and 77A, which impose restrictions on liquor barn–style packaged liquor outlets. That group made a number of claims. It had very different views from many of the others. It denied a link between the increased availability of alcohol and the increased consumption of alcohol, and hence harm from alcohol. It believed that drinking was on a downhill trend; people are drinking more responsibly, with more people abstaining from alcohol; there are fewer underage drinkers; and fewer people drinking at risky levels. "Risky levels" refers to more than two standard drinks a day.

The group provided some figures from the "National Drug Strategy Household Survey 2016". Those figures correctly showed that 17.1 per cent of people aged 14 or older drink on average more than two standard drinks a day. That is effectively an amount that poses a lifetime health risk to them, which is also a decrease, and 22.9 per cent are abstainers, which showed an increase in abstention. But it omitted the figures that show 25.5 per cent of people aged 14 or older drink more than four standard drinks on average at least once a month; in other words, an amount that poses an increased risk of alcohol-induced injury on that single occasion. Nor did that group show the breakdown of these figures in the single occasion risky drinking category: 42 per cent of 18 to 24-year-olds; 39.9 per cent of 25 to 29-year-olds; 31.1 per cent of 30 to 39-year-olds; 29.7 per cent of 40 to 49-year-olds; and 24.6 per cent of 50 to 59-year-olds.

The Liquor Stores Association of Western Australia, which represents independent liquor stores, was also in contact with the Greens. It quite clearly took the opposite position—it supports the bill's limitations on liquor barns. I note that that position caused the Endeavour Drinks Group to resign its membership of the LSAWA in February 2018.

The Australian Hotels Association Western Australia supports the bill but says there remains a need to address the serious and escalating risks posed by the abuse of occasional permits to operate large pop-up venues. I will speak about that in a moment.

The Greens also met with the Business Improvement Group of Northbridge, the WA Nightclubs Association and the Small Bar Association of WA on 19 April. They were concerned about pop-ups, or temporary bars. They made it very clear that they do not oppose pop-ups, but that pop-up laws are being exploited by some businesses. They said that the proliferation of pop-up bars and their size and continuity not necessarily being associated with events is taking business away from bricks-and-mortar venues that have invested in staff, including security staff, and from those that have undertaken accords, engaged in efforts to address antisocial behaviour and have invested in closed-circuit television and ID scanning and in facilities such as ensuring there are toilets, seating, parking, food provision—all the things that are required to run a responsible establishment. They were concerned that safety and public interest are effectively being sacrificed in the name of vibrancy. They advised that they want pop-ups with a capacity of 250 people or more, or those that are open for more than two days, to be required to strictly comply with the 21-day time limit; be linked to events via a ticketing or entry fee; and be subject to the public interest assessment and advertising–objections process and the responsible service of alcohol and approved manager requirements.

The Western Australian Police Union of Workers advised on 23 April this year that it does not object to the bill but is concerned that police may have to deal with more drunken violence and people driving under the influence of alcohol. It made the point that the state of the budget means they are unlikely to get more personnel or resources in order to deal with this. The WA Police Union would be interested in lock-out laws, as in New South Wales, and a statutory review to gauge the bill's impacts. I note the government has proposed an amendment for a review in five years, which is good. I have always been a fan of review clauses within legislation.

Lest I am accused of being a health zealot, I think it is really important to put on the record the many reasons the Greens hold such strong views about the effects of alcohol. We are an evidence-based party and our policies very much require us to make sure that we are very clear about why we take our positions. I am going to spend a little time talking about some of the health impacts of alcohol. It is really important that we remember in the broader context of this legislation that we are talking about effectively a substance that has the capacity to cause harm.

The negative health impacts of alcohol do not relate only to irresponsible drinking. We know that more than two standard drinks a day on average poses a lifetime risk of alcohol-related disease or injury. More than four standard drinks on a single drinking occasion poses a risk of alcohol-related injury occurring on that single occasion.

In March this year, Curtin University published an article in *The Conversation* entitled "Four ways alcohol is bad for your health" that stated that in Australia almost 6 000 deaths a year and around 400 hospitalisations a day can be attributed to alcohol. Health risks are not restricted to heavy drinkers. The consumption of more than two standard drinks a day increases cancer risk. Alcohol is one of the largest risk factors for avoidable death and illness. Four diseases are strongly linked with alcohol consumption—one of them is cancer. Alcohol is a leading cause of

cancer. Around 2 000 Australians a year die of alcohol-attributable cancers. Three decades ago, the World Health Organization rated alcohol as a group 1 carcinogen, which is the same category as tobacco. Alcohol consumption also contributes to heart disease. Alcohol-attributable heart disease is a major contributor to death and hospitalisations in Australia. It causes injury. Falls and assaults contribute to 21 per cent of alcohol-attributable hospitalisations in Australia. Other types of injury include drowning and vehicle accidents. Alcohol consumption also contributes to neuropsychiatric disorders. These contribute to 37 per cent of alcohol-attributable hospitalisations in Australia. Mental health conditions associated with alcohol include depression, self-harm and suicide. Alcohol also impacts on the developing brain. There is also alcohol-acquired brain injury.

We know that Aboriginal and Torres Strait Islander people are less likely to drink alcohol than non-Indigenous people, but those who do drink are more likely to drink at harmful levels, especially men. In 2011, alcohol accounted for an estimated 8.3 per cent of the disease burden of Aboriginal and Torres Strait Islander Australians. That is 2.3 times higher than for non-Indigenous people. From 2010 to 2014 in New South Wales, Queensland, WA, South Australia and the Northern Territory, Aboriginal and Torres Strait Islander men were 4.7 times more likely than non-Indigenous men to die from conditions solely caused by alcohol. For women, the figure was 6.1 times more likely. From 2011 to 2015, the suicide rate for Aboriginal and Torres Strait Islander people was 2.1 times higher than that for non-Indigenous people, with 40 per cent of male suicides and 30 per cent of female suicides attributable to alcohol use. The cost to society of alcohol-related problems is huge. Government revenue in Australia from alcohol taxation is estimated to be $6.36 billion in 2017–18, but the cost of alcohol-related problems in 2010 was conservatively estimated at $14.35 billion, rising to as much as $36 billion if harm caused by other people's drinking is taken into account.

National figures in the 2016 National Drug Strategy Household Survey indicate that about 4.4 million Australians, or 22 per cent, reported being a victim of an alcohol-related incident in 2016—for example, verbal abuse or physical abuse—down from 4.9 million, or 26 per cent, in 2013.

The WA Police Force submission to the review of the act stated that there is an unacceptably high impact of drinking culture on its resources, especially between 10.00 pm and 2.00 am on Friday and Saturday. WA police provided figures that 18 551 drivers are charged each year with exceeding the lawful alcohol limit, 35 per cent of whom nominate a licensed premises and 47 per cent of whom nominate a private residence as their last drink location. In 2011–12, 46.9 per cent of domestic assaults and 37.2 per cent of non-domestic assaults were alcohol-related. WA police stated that alcohol misuse diverts police resources from other serious offences that the police need to address.

For the last 25 years, the drinking levels of Australians have been around, bearing in mind fluctuations, 10 litres of pure alcohol per person aged 15 and over per year. This is more than the Organisation for Economic Cooperation and Development average of 9.1 litres in 2013–14. Australia is a nation of drinkers. The Western Australian level is even higher, at 11.94 litres in 2011–12. In Western Australia, there are fewer non-drinkers than the national average—18 per cent compared with 22 per cent nationally. Therefore, compared with other Australians, people in Western Australia are more likely to cause themselves long-term harm from alcohol by drinking more than two standard drinks daily—22 per cent, compared with 18 per cent in 2013. They are also more likely to drink more than four standard drinks at least monthly—31 per cent compared with 26 per cent in 2013.

National figures from the 2016 National Drug Strategy Household Survey show a decrease in the number of people exceeding the lifetime risk guideline but no change in the number of people exceeding the single occasion risk guideline. With regard to lifetime risk, 24 per cent of males, compared with 9.8 per cent of females, drink at risky levels, and although the figures for 18 to 24-year-olds are improving, the figures for older people are not, particularly for women aged between 50 and 59 and men aged over 40. With regard to single occasion risk, again the figures are decreasing for 18 to 24-year-olds but not for older people. That said, single occasion risk figures are still high at 42 per cent for 18 to 24-year-olds; 39.9 per cent for 25 to 29-year-olds; 31.1 per cent for 30 to 39-year-olds; 29.7 per cent for 40 to 49-year-olds; and 24.6 per cent for 50 to 59-year-olds. Very high-risk drinking is taking place. The number may have declined for 12 to 24-year-olds but it has increased for people in their 50s and 60s. That said, people in their late teens and 20s are still far more likely to have drunk 11 or more drinks in one sitting than people in their 50s and 60s.

The evidence is that greater availability of alcohol does mean greater alcohol-related harm to people. Alcohol can be made less available economically, such as by using tiered volumetric taxation or banning the sale of low-priced, high-alcohol content drinks, or physically, through drinking age restrictions, reduced trading hours, and reduced outlet density. I want to note the four common objections to restricting availability of alcohol. The first is that restrictions may be circumvented. However, the evidence is that, generally, attempts to circumvent have less impact than do the restrictions. The second is that use of other drugs may increase as a substitute for alcohol. However, the evidence is that although some substitution may occur, substitution is variable and complex and not a simple one-to-one phenomenon. The third is that restrictions thwart competition. However, the Harper National Competition Policy Review endorsed a public interest test—that is, that restrictions are acceptable when the benefits to the community as a whole outweigh the costs and the objectives of the regulation can be achieved only

by restricting competition. The Greens are satisfied that this criterion has been met. The fourth is that consumers may not be able to access alcohol as easily as they want to. In the present context, no such argument can sensibly be made—except in relation to the bill's provisions with regard to juveniles, barring, and sly-grogging, which are specifically designed to achieve that exact outcome, all of which are supported by the Greens.

I now want to deal with a lost opportunity in this bill. The government's stated aim with this bill is to achieve a balance between vibrancy and harm minimisation. However, the bill does not address the issue of pop-up or temporary bars. The Greens have received feedback, and I know the minister has too, from the Business Improvement Group of Northbridge, the WA Nightclubs Association and the Small Bar Association of WA, expressing considerable disappointment that the government has not used the opportunity in this bill to address this issue and stating that that is a serious omission. They have supplied me with a marked-up copy of the act and regulations and proposed amendments that they consider would have struck the right balance in respect of pop-up bars. I understand the minister has received a copy too. However, I also understand that it is beyond the scope of what could be contemplated as an amendment for the purposes of this bill.

At the time of the independent review, occasional licences were most commonly used for one-off functions such as fundraising events and school events such as fetes—the sorts of events that Hon Colin Holt talked about. They were also used by unlicensed clubs, which might conduct 10 to 15 functions per year, and by permanent licence holders who wanted to conduct a function such as a music festival. However, nowadays occasional licences are commonly used not only for those functions but also, increasingly, for pop-up or temporary bars. I want to be clear that the Greens are not opposed to pop-up bars in principle. However, we are concerned that the occasional licence system, and I understand also the catering licence system, has become distorted because of the way it is currently being used. I understand that it is currently possible to obtain a series of consecutive occasional licences in order to run a so-called temporary bar all summer long. It is also possible to cater to hundreds of patrons at a time but circumvent the requirements that I have talked about—such as the provision of toilets and security, and the objections process—that apply to everyone else, including licensees whose venue may have a far smaller capacity.

I have been supplied with some pictures illustrating the concerns of the Business Improvement Group of Northbridge about small bars. One of the pictures is of the Fringe World Pleasure Garden in Northbridge, which I attended. It was fantastic. That group made it clear to me that it does not object to that sort of pop-up bar and that it is a good example of the appropriate use of this type of licence. A couple of other pictures from the Ice Cream Factory and Noodle Palace during that time were supplied. With me I have pictures that show hundreds of people. I seek leave to table these pictures as an example of what I expect a pop-up bar that would be subject to an occasional licence would look like, and also what pop-up bars are getting away with. I seek leave to tender those pictures.

Leave granted. [See paper 1437.]

Hon Alannah MacTiernan: Did you go there during the festival?

Hon ALISON XAMON: Yes. I am happy to take that interjection. The answer is that I went to both.

Hon Alannah MacTiernan: Did you enjoy them?

Hon ALISON XAMON: I went to the Pleasure Garden at the Fringe World Festival. I also went to one at the Library. That was wonderful. I went to the Ice Cream Factory not for the purpose of drinking, but to see a show. If the minister looks at the picture I supplied, the occasional licence granted allowed for hundreds and hundreds of people to be there. I walked past it on New Year's Eve, and it was absolutely packed. I very much recall that.

Hon Alannah MacTiernan: Were you there when they had the hour shows, so some people were waiting to go in and others were waiting to come out?

Hon ALISON XAMON: Yes. I was there during the fringe festival. I walked past what was happening at that venue on New Year's Eve—it was like a huge rave almost—and then I saw the difference in how it was being used —

Hon Stephen Dawson: What is this rave thing you are talking about?

Hon ALISON XAMON: I was young once, thank you, minister!

I went there during the fringe festival, and it was a very different atmosphere. We need to carefully make sure that those occasional licences are picking up the latter intent, rather than what happened the first time I walked past it. Clearly, I think that this is not what the occasional licence system was intended for. It is important that we reset the balance before this sort of practice becomes too embedded. I have been told the minister will not legislate, and that this is apparently a non-negotiable position. However, I am also aware that the minister informed Parliament during question time in May this year that he has heard the concerns of the named stakeholders, the Australian Hotels Association, and the representations of various members of Parliament—including those of my colleague Hon Robin Chapple—and that he is now close to finalising a directives policy that will ensure the public interest assessment process applies to occasional licence applications for events that have capacity for 500 or more people. That would have addressed the Ice Cream Factory over New Year's Eve. He also undertook to continue to

monitor that policy to ensure that licensees with occasional licences are operating within the spirit of the law, as well as the letter of the law.

Clause 32 amends the act to make catering licences more portable. I am concerned that this may open the door to exactly the sort of distortion that we are seeing with occasional licences transferring to catering licences. The Greens have raised their concerns with the minister's office, and understand that the minister's policy and ongoing review will apply to catering licences as well as occasional licences, to ensure that the distortion does not simply move through different licence categories. I certainly hope that will be the case.

The Greens would prefer the pop-up issue to be addressed by legislation rather than by policy. I appreciate that it is the minister's view that policy is better able to distinguish between huge pop-up events when a public interest assessment is appropriate and small, one-off events like at a local P&C, school or club; however, my own view is that legislation is not such a poor instrument that it is unable to make that distinction. It seems to me that we have lost an opportunity to address this by omitting the issue from the bill. I am glad the minister seems to realise that this is a problem, steps will apparently be taken to address it, and that this is one of those issues that will be kept under review.

I want to pick up on the issue touched on by previous speakers about the use of regulations, rather than putting things into the act. One of the very concerns that the Greens have with this bill is its heavy reliance on creating heads of power for regulations to address issues rather than addressing those issues directly in this bill. I am again saying that the Greens are not of the view that legislation is as blunt an instrument as all that. A further concern is that the different process that applies to regulations means that we are not able to scrutinise them in the same way. Bills, of course, are scrutinised, can be amended and come into existence in an agreed form, but regulations come into force first and are scrutinised later.

Having said that, we really like many things about this bill. Although the Greens have concerns in those respects I have already mentioned and will move some amendments in relation to further concerns, we find that there is much in this bill to support. I particularly confirm our support for the packaged liquor and liquor barn provisions, the closing of the loophole on the delivery of liquor with the aim of preventing juveniles receiving liquor deliveries, the sly grog provisions—excluding the mandatory penalty, which we will address—and the review provision contained in the government's proposed amendments. I will go through some of the specific issues that I hope will be addressed in either the reply or in the course of committee.

I refer to the objects of the act. Recommendation 19 of the independent review was that the subject matter of this bill must be a primary object of the act. The bill makes it a secondary object. Our concern is that this is effectively downgrading its importance, because subsection (3) provides that any inconsistency between the primary and secondary objects will be resolved by giving precedence to the primary objects. One of the primary objects already in the act is to cater for the requirements of consumers of liquor and related services with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the state. It is a real pity to see that being put higher than human health and safety.

We also have some commentary around the procedure in proceedings before the licensing authority. This provision relates to inspection of documents. A party may currently inspect the documents to which the licensing authority will have regard and make submissions on them, but proposed subsection (3) restricts inspection of submissions to documents relevant to the party's own case. I understand that the intention is to ensure that information that should be kept confidential, such as personal details not relevant to the case, is not disclosed. I understand the intention is definitely not to restrict a party from having the usual access to relevant documents relied on by the other party, and the usual opportunity to shine a light on any flaws in the other party's case. But I ask the minister, for the record, to confirm that this is the case, to assist with future interpretation.

Hon Alannah MacTiernan: So what are you seeking confirmation of?

Hon ALISON XAMON: This is the provision relating to the inspection of documents.

I have some comments around the restrictions on the grant or removal of certain licences authorising the sale of packaged liquor. Under this provision, an application for the grant or removal of a hotel licence without restriction, tavern licence, liquor store licence or special facility licence of a prescribed type cannot be heard or determined if the place is less than the prescribed distance—there may be different distances in different areas of Western Australia—from packaged liquor premises; the area of the retail section of those packaged liquor premises exceeds the prescribed size; and the proposed retail section exceeds the prescribed area. It cannot be granted unless the licensing authority is satisfied that consumer requirements for packaged liquor cannot be reasonably met by packaged liquor premises that are already present in the area. I note this is a harm-minimisation measure that is supported by the Greens, and also, as I have mentioned previously, by the McCusker Centre for Action on Alcohol and Youth, which has provided the following information in its letter dated 6 April 2018. It did it complete with references. It said that more than 80 per cent of alcohol sold in Australia as packaged liquor, largely from bottle shops, Woolworths, which includes Dan Murphy's, BWS and others, and Coles, which includes First Choice

Liquor, Liquorland and others, had around 63 per cent of the market in 2016–17. In 2016, $1 in every $3 spent by Australians on alcohol was spent at Dan Murphy's.

A number of studies show that packaged liquor outlets are positively associated with a variety of harms, including alcohol-related disease, assault and domestic violence. A 10 per cent increase in the rate of packaged liquor licences would increase assaults by 0.8 per cent and chronic alcohol-caused hospitalisations by 1.9 per cent. There are particular issues related to liquor barns because discounted prices increase alcohol sales and therefore alcohol-related harm, particularly injuries and assaults.

This information has been referred to a number of times during this debate. I seek leave to table this letter.

Leave granted. [See paper 1438.]

Hon ALISON XAMON: We have some issues around clause 20, which amends section 38, with some applications not to be granted. The clause does a few things. One aspect of it is opposed by the Greens. Currently an application for grant or removal of a licence is subject to a public interest assessment. Subclause (1) proposes that this be narrowed to apply only to licences of a kind that have been prescribed. The Greens are not supportive of this provision. As I have stated at length, alcohol is a drug, a group 1 carcinogen like tobacco, with great potential to have quite negative impacts on consumers, even at surprisingly low levels, and great potential also for negative impacts on other people, including partners, children in utero and members of the community, and on the taxpayer as well through costs of alcohol-related crime and alcohol-related health problems. For these reasons, even when the risk posed seems, on the face of it, to be relatively low, our view is that a public interest assessment is nonetheless merited in all cases. Another reason the public interest assessment should apply in all cases when a grant has been considered is that one low-risk venue is one thing, but a proliferation is quite another. A public interest assessment should therefore be required. The public interest assessment guideline on the department's website confirms at page 3 that the level of detail to be provided varies depending on the complexity of the public interest issues raised. We say that that is appropriate. A proportionate approach is appropriate. Complete abandonment of the public interest assessment process altogether, even for a seemingly low-risk licence, is not appropriate.

Recommendation 38 of the independent review contemplated that the director have discretion to consider an application for the removal of a licence within a short distance and an alteration or redefinition of a licensed premises without the need for a public interest assessment submission to be lodged. This bill is going much further than that. The independent review supported the act distinguishing between low and high-risk licences. It identified low-risk licences as club licences, restaurants, small bars, wholesalers and producers. It identified high-risk licences as hotels and taverns, nightclubs, liquor stores, casinos and special facilities. It supported taking a proportionate approach and having a less detailed public interest assessment for low-risk licences. It did not recommend completely abandoning the public interest assessment. If this provision is passed, and I suspect it will be, the McCusker Centre for Action on Alcohol and Youth has recommended that the impact of this provision be very carefully monitored. However, I understand that there will be no monitoring. There will be statistics showing whether there is a spike in low-risk applications and there will probably be more police interventions and more complaints if there are negative impacts on public order, but there will be no monitoring. We will move an amendment to this clause to delete this particular aspect.

I ask the minister to indicate for the record what licences will be prescribed so that they do not have to meet the public interest assessment. Will it be only removals as per recommendation 38? What of clubs, restaurants, small bars, wholesalers, producers, hotels, taverns, nightclubs, liquor stores, casinos or special facilities? The clause on the restriction on alteration of certain packaged liquor premises complements clause 18, and the Greens support it as a harm-minimisation measure.

I want to make some comments about the sly grog provision. This proposed section will make it an offence to carry in a vehicle, which has been very broadly defined and includes trailers and caravans, more than the amount of liquor prescribed in a prescribed area of the state. The penalty is a $10 000 fine, with a minimum penalty of a $1 000 fine. It is a defence if the liquor was carried for the purpose of making a lawful sale or if the person or vehicle was in a prescribed class. Police who pick up a suspected sly grogger are going to have the usual discretion as to whether they charge that person or let them off with a warning. In addition, they will have the power to seize and dispose of that excess liquor. Should the matter be prosecuted and the person convicted, a minimum penalty of a $1 000 fine will apply. I need to be very clear: the Greens oppose mandatory penalty provisions for reasons that I talk about pretty much every time we get up to talk about mandatory sentencing, which I do not wish to repeat here. Should the mandatory minimum of a $1 000 fine penalty in this provision apply to an Aboriginal offender, that person is unlikely to be able to afford to pay it. We know already that the consequences of fine default can include driver's licence suspension, which is a heavy penalty in a remote area that is lacking public transport. We know that it is often a pathway to prison. I remind members of the coronial inquest some years ago into the death of Ms Dhu, who was a fine defaulter who died in custody. Imprisonment of Aboriginal people, especially women, for fine default is particularly prevalent in Western Australia and needs to stop. Imprisonment for fine default is merited neither by the nature of the wrongdoing nor the cost of incarceration. I accept that section

109, which immediately precedes this proposed section, already contains mandatory minimum fine penalties for sale of liquor offences, but I do not think this is sufficient justification for enacting a further mandatory minimum penalty, so I will move an amendment to delete the mandatory minimum penalty.

I want to be very clear: the Greens recognise that although we have some problems with this legislation, overall we recognise that it is fairly sound and does contain some important harm-minimisation provisions. We support the establishment of small wine bars as a way to hopefully move towards a change to our public liquor culture. As such, the Greens will be supporting this legislation. I look forward to being able to discuss the specific details further when we go into committee.

HON AARON STONEHOUSE (South Metropolitan) [6.19 pm]: Liquor is perhaps the single most heavily regulated industry in the state.

A government member interjected.

Hon AARON STONEHOUSE: I am sorry, honourable member, I will not take interjections as I have a lot to get through this afternoon and I do not want to be interrupted.

Hon Alannah MacTiernan interjected.

The PRESIDENT: Order! Hon Aaron Stonehouse has about 30 seconds before I interrupt him myself.

Hon AARON STONEHOUSE: Thank you, Madam President. As I was saying, the liquor industry is perhaps the most heavily regulated. Sorry, Madam President, before I continue, I would like to point out that I am the lead speaker for the Liberal Democrats.

Debate adjourned, pursuant to standing orders.