LIQUOR CONTROL AMENDMENT BILL 2018

Consideration in Detail

Resumed from 21 March.

Clause 25: Section 48 amended —

Debate was adjourned on the following amendment moved by Mr P. Papalia (Minister for Racing and Gaming) —

Page 18, after line 6 — To insert —

(ba) after paragraph (e) insert:

(ea) an up-to-date register of visitors (as defined in subsection (2B)) be continually available for inspection at the club premises; and

Mrs L.M. HARVEY: Prior to debate on this legislation being adjourned yesterday, the member for South Perth raised some questions about this clause. We agree that there needs to be some mechanism for clubs.

I will just wait until the minister is listening. I thank the minister; I am pleased to have his attention.

Western Australian clubs obviously need a mechanism for recording visitors, and they will be the beneficiaries of significantly greater patronage as a result of the deregulation before us as part of this amendment. We are supportive of this. Clubs often find the current environment difficult because life has changed. Many people no longer necessarily want to be members of clubs and socialise in clubs in the way that perhaps they used to 20 or 30 years ago. We are seeking reassurance from the minister that, as a result of clubs having to keep this register of visitors and have it continually available for inspection, there will not be a heavy-handed approach from the department and that we will not see clubs being penalised for missing the postcode of a visitor's address or perhaps missing a visitor's name and address being recorded in the book because a volunteer may not have been as well-versed in the management of the premises as they should be. It is really just to ensure that clubs will not fall under a heavy compliance regime with regard to this register and that we will not see severe penalties being imposed on clubs if some errors are inadvertently made by volunteers in keeping the register. That is really the assurance we want from the minister. We understand the spirit of these amendments. We understand that there needs to be some recording mechanism for clubs to record visitors in the spirit of this amendment and keeping track of the level of tourism and tourists visiting clubs. We do not want to see a regime that heavily penalises clubs if there are inadvertent errors. Obviously, if a club has 200 people in it and has only 35 members and 10 people recorded in the book, we would expect that that problem would need to be highlighted, but if they are missing one or two members on a visitors' register we do not want to see clubs suffering from a heavy-handed approach to those matters. That is the reassurance we seek from the minister with this amendment.

Mr P. PAPALIA: I have no idea where the desire to seek reassurance in this matter comes from, but of course there is no intent to place any onerous obligations on clubs in Western Australia. As I am informed, as of today Clubs WA is very keen for this legislation to pass through Parliament. That organisation supports the legislation entirely, and is very keen for it not to be held up any further. Should any members opposite hold any concerns in that regard, I suggest they ring Karen Giles and confirm this themselves. There is no concern about any obligations regarding the register; the clubs support it.

Mr J.E. McGRATH: I have no concerns either, but I am interested in whether visitors to clubs will be required to pay a fee. Will the club have to charge a fee, or will that be up to the club?

Mr P. PAPALIA: They will be required to charge a fee.

Mr J.E. McGRATH: I gather that would be because, if I am a member of a club paying a membership fee, and someone could just come in and drink at my club without paying anything, it would not be fair. It might only be a couple of dollars or something.

Mr P. Papalia: Correct.

Mr J.E. McGRATH: Does this already happen in some clubs? I know that in the clubs of which I am a member, people do not pay a fee, but is the minister aware of any clubs that charge fees?

Mr P. PAPALIA: I personally am not. The concern would be that these places could be turned into alternative pubs, but that is not the intention of the legislation; it is to enable genuine visitors to use the services of clubs, and that is why there is a fee. Clubs WA is happy with that.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 26: Section 49 amended —

Mrs L.M. HARVEY: This clause, as I understand it, removes the requirement for clubs to register their constitutions with the department. This is a significant removal of red tape for the clubs and I certainly welcome it. I just want the minister's confirmation that that is what this clause does.

Mr P. PAPALIA: Yes, that is what it does.

Clause put and passed.

Clause 27: Section 50A inserted —

Mr J.E. McGRATH: This is just for clarification. I gather that this is the clause under which certain venues, up to a capacity of 120 people, will not need to apply for extended trading permits. It will take that red tape element out of it. Can the minister just explain for *Hansard* how this will operate, and what this will mean for those businesses? What sort of ETPs might they normally apply for? When these operations apply for ETPs, would it be for extended trading on weekends, late-night functions or whatever, and how would this mechanism work when they are actually granted their licence? Because of their size, there will be no requirement for them to apply for the ETPs.

Mr P. PAPALIA: Currently, in the event that a restaurant with a capacity under 120 people wants to serve liquor without a meal, it has to apply for a permit. This clause will enable those licensees to tick a box when they apply for their licence so that they will not be required to seek a permit to serve liquor without a meal. It will just be an automatic entitlement.

Mr J.E. McGrath: If they wanted an ETP for a special event that they wanted to hold, or they wanted to operate later than normal —

Mr P. PAPALIA: That is a different process; that would be unchanged. This is just for restaurants smaller than a 120-person capacity to remove the obligation to seek a permit to serve liquor without a meal. It is just a streamlining.

Clause put and passed.

Clauses 28 to 31 put and passed.

Clause 32: Section 60 amended —

Mr J.E. McGRATH: The opposition will be seeking some clarification on this clause. I gather this is the clause that gives bricks and mortar operations an opportunity to become a bit creative and go into the pop-up area. My first question is: what is the definition of "adjacent", and will a permit allow licensees to activate next-door laneways, or the car park up the street or across the road? The minister is saying that this gives licensees an opportunity to compete in a new market that has come up—the pop-up market, which we have discussed at length earlier. The government will allow licensees to do these things and go into a bit of a pop-up area themselves. Where does the minister envisage hotels or taverns being able to avail themselves of this opportunity, and does the minister think they really will? Does the minister believe that this is an opportunity that hotels will be able to take up quite easily?

Mr P. PAPALIA: I think the member has jumped to clause 33, with the consideration of land adjacent to the premises. Clause 32 is about licensees establishing pop-ups remote from their premises via a catering licence.

Mr J.E. McGRATH: I will ask the previous question for the next clause. Can the minister explain how a caterer's permit will allow for licensed venues to operate pop-up venues in their own right, so that they could just find a piece of land somewhere? An example I have is the Windsor Hotel in South Perth. If the licensee wanted to start a pop-up down on the foreshore, on Sir James Mitchell Park, would he be able to do that—not that he particularly wants to, but would he be able to do it if he wanted to?

Mr P. PAPALIA: Member, this clause is different from the one that enables established venues to create or establish pop-ups on land they control. This one will enable them to, essentially, compete in the pop-up market, perhaps alongside players who are in the pop-up business. It will remove from them a cost and one of the obligations that a pop-up operator who does not have an established venue has to meet. This means that by taking away the challenges associated with getting a catering licence, because they can operate under their ETP without getting a catering licence for a pop-up, an established venue in the vicinity of a festival could bid to the festival operator in competition with people who have to get a catering licence. It will give them a little competitive advantage. The other avenue for increasing their opportunities lies in the other clause. This one is to remove the obligation to get a catering licence. It will give them a little bit of an advantage. They can operate under their ETP as a competitor in that environment, say during the Fringe World Festival and the like. If there is an independent operator at that festival, they can bid. They will not have some of the costs associated with getting into the bid that other players might have, and that is to help them out a little bit.

Mr J.N. CAREY: I refer to an amendment that has not been made yet but which relates to section 60 covering extended trading permits and the time frame. Section 60(4)(g) states, in part —

> extended hours, authorising the licensee to sell liquor under the licence … which remains in force for the period, not exceeding 5 years,

Is there a possibility of extending this to a longer time frame? As the minister will be aware, it is a process by which to get an extended trading permit for a venue. As we know, this is not necessarily used by a permanent venue through the whole year; for example, often extended trading permits are used seasonally, particularly in summer, or used by venues to compete against pop-ups in the city or Leederville and so forth. I was hoping that, to reduce the burden on established venues, consideration could be given to extending the five-year period to a longer period. There are some views that it should be completely abolished, but that would not allow any checks and balances, and I think we should extend that. In the past, it was one year, then it was two years and now it is five years, so clearly there has already been flexibility. I am looking for the minister's views on whether we could extend the time frame.

Mr P. PAPALIA: Thank you, member. His advocacy on behalf of small businesses, both in his electorate and right across the state, particularly those engaged in the hospital sector, is well known. He is a forceful advocate on their behalf, particularly for established venues. I have frequently heard him say that we need to do more to support the vibrancy of our entertainment localities and ensure that we support sustainable established venues because they are the ones that are there all the time, who train and employ people and contribute significantly to the local community. I have been approached in this regard by the Australian Hotels Association on behalf of many of its members, who see that there would be significant value in potentially extending the tenure of ETPs. We have prepared an amendment in that regard. I therefore move —

> Page 23, after line 19 — To insert —
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> (ca) in paragraph (g) delete "5" and insert:
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> 10

Should this motion be passed, extended trading permits would last for as long as 10 years. That would be a significant win, I think, for the small business sector of hospitality operators right across the state. It is something their representatives, peak bodies—particularly the AHA—and individuals such as the member have been calling for for some time throughout this consultative process. We feel it is a legitimate request.

Mr J.E. McGrath: It is very late. How come you didn't —

Mr P. PAPALIA: We are getting advocacy right up to the very moment of speaking. The member for South Perth would be a robust supporter of eliminating red tape and freeing up the hospitality sector further. Unlike some of his other moves in the Parliament this week, this one will support small business, so I thought he might want to try to make amends to the small business community in some small way by supporting them on this occasion. I look forward to the support of the entire house.

Mr J.E. McGRATH: Of course we will support this. Can the minister outline to the house what categories of licence this will apply to?

Mr P. PAPALIA: It is for ongoing extended trading hours. It will often be hotels or country liquor stores—those in that particular category.

Mr J.E. McGRATH: That means that if a hotel such as the Windsor Hotel in my electorate wanted an ETP to trade until 2.00 am on Sundays, and got it, it would be for 10 years?

Mr P. Papalia: Up to 10 years.

Mr J.E. McGRATH: Up to 10 years.

Mr P. Papalia: It is up to five at the moment, but it will not exceed 10 years.

Mr J.E. McGRATH: Up to 10 years means the director could take it from them after six months.

Mr P. PAPALIA: As he can now. We are shifting the parameters. Currently, it is up to five years. As the member said, it is within the purview of the director to determine whether it is five years or a shorter period, or whether a change is made. Moving it up to 10 years clearly signals to the director that we wish to diminish obligations: the onerous nature of red tape and reapplication, particularly for premises that are responsible and reliable and comply with all the obligations. They are the people we want to help, and the director is an independent authority and will always apply their own reasoning and make their determination. We are shifting that parameter to 10 years, and that is a significant change.

Mr J.E. McGRATH: This is the important one to me.

Mr P. Papalia: I understand.

Mr J.E. McGRATH: For a long time, my constituent has had issues with having to get an extended trading permit every time he wants to trade a bit later, especially on the Sunday of a long weekend. It is a very good and well-run establishment. If the director of Liquor Licensing deems that it is in the best interests of the patrons, and maybe tourism or whatever, to give an establishment an ETP, it will apply for up to 10 years unless, of course, there is a breach.

Mr P. PAPALIA: I concede that the member for South Perth has been advocating for an extended time frame as well for ETPs, on behalf of his constituent, who is a very respected member of the hospitality sector. Ultimately, the same management practices will apply as at the moment, with the exception that we are extending the opportunity for hoteliers, and country liquor stores that have the current appropriate licence, to apply for a 10-year ETP, and if the director authorises that ETP, yes, that will be the case. That will remove a lot of obligations around that ongoing practice. However, it would always be subject to them complying and not breaching and the director not determining that the situation should change.

Mr J.E. McGrath: But if they made a ridiculous request, such as wanting to stay open until six o'clock in the morning, they might not get that.

Mr P. PAPALIA: I imagine they are doing that now under the five-year permit. Whatever they are applying for, they will apply for, but it will be under the new extended time frame. We are, hopefully, reducing the process around getting an ETP. So long as they are responsible and comply, the ETP will continue for a longer period of time.

Ms L. METTAM: This is an issue that I raised during the second reading debate and have also raised locally in the press. Obviously, any extension to the period for which an extended permit will apply is welcome. In large regional centres in Western Australia in which there is not Sunday trading, it is quite an exhaustive process to get an extended trading permit in the first place. Is there scope for any further reform to approve an extended trading permit as an ongoing permit, to be revoked only if there is a problem with the venue and its management, rather than for only this maximum 10-year period?

Mr P. PAPALIA: This is a significant change. We are doubling the length of tenure of these permits. My response would be that we will watch how it works and assess whether it has been effective, has not been breached regularly, and has not resulted in any diminution of responsibility by licensees. I will not say that we will definitely address it, but potentially we might address it. At the moment, let us implement this and watch how it works, and look towards further reform if that is possible and if there is no reason why we should not do that.

Ms L. METTAM: I have a question about regional liquor stores or other venues that seek an extended trading permit. An example is the bottle shop in Dunsborough. Does it relate to liquor stores as well?

Mr P. PAPALIA: I am informed that it relates to country liquor stores with an ongoing hours ETP.

Mrs L.M. HARVEY: Minister, this legislation is somewhat of a moveable feast. The minister has brought in the amending legislation. This is now the fifth or sixth amendment to the amending legislation that has been brought forward since we started consideration in detail. I notice that this amendment was lodged at 9.57 am, or ten o'clock this morning. It is now three o'clock this afternoon, and the minister has sprung it on the opposition and says the government expects our concurrence and wants to expedite this legislation through the Parliament. Why did the minister not circulate this amendment at 10 o'clock this morning, when it was lodged as an amendment that the government is proposing to put forward, and at least give the opposition some opportunity to understand what sits behind it, and call some of our constituents who have an extended trading permit and ask them whether they think this amendment is a good idea? The member for Perth has spoken in this debate. As far as we can see, this is a stunt so that the member for Perth can write to his constituents and say, "Hey! I got that for you. I got that amendment through." The government wants the opposition to support its legislation and get it through. We do not have the numbers in this house. The government will get this amendment through if it chooses to—and if it applies the gag, shamefully, as it did the other day, it will get it through today. However, for the government to circulate at three o'clock this afternoon an amendment that it wants the opposition to support, when it was drafted at 10 o'clock this morning, is rude in the extreme. It is rude. It is an obnoxious way to treat an opposition whose concurrence the government is seeking for this amendment.

The Legislative Council views this kind of behaviour as very poor indeed. I put to the minister that adding these amendments to this amending legislation during consideration in detail will be somewhat of a red flag to the individuals in the Legislative Council. It is highly likely that this legislation will now be held up in a committee process in the Legislative Council. The members of the Legislative Council do not like amendments to be made on the way through, because it makes the legislation look like a dog's breakfast. It is policy on the run. The members of the Legislative Council want to ensure that when legislation is brought through this Parliament, there is a sound basis for every single clause that amends existing statutes.

We will support this. It sounds as though it is a really good idea. However, I place on the record, and I want *Hansard* to record, that this is the contemptuous way in which the government treats the opposition. We will make sure that the members of the other place are made aware of the delay in circulating this amendment to the Liberal Party in this chamber, and they can do with that and treat that as they choose.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 33: Section 61 amended —

Mr J.E. McGRATH: Earlier, when I wanted to talk about the opportunities for bricks and mortar hotels, the minister suggested that I wait until we get to clause 33. The question that I asked earlier is: what is the definition of "adjacent", and will a permit allow a licensee to activate a laneway next door, or a carpark up the street or across the road? What capacity will a hotel licensee have to set up a pop-up bar arrangement outside the confines of their hotel or premises?

Mr P. PAPALIA: I am told there is not actually a definition of "adjacent". I have said regularly that I am talking about laneways alongside a hotel or premises—the established venue—or a carpark that is attached to the premises, which they control through either leasehold or freehold.

Mr J.E. McGrath: There are a lot of those in Melbourne.

Mr P. PAPALIA: For example, we announced this initiative to the media at Print Hall. At the front of Print Hall, there is a shared walkway that multiple businesses front on to. I was told that the entire area is under one lease. Conceivably, that could become a micro festival that is controlled under one lease. That would meet the obligation to be adjacent. Those businesses could establish pop-ups outside their venues and create their own little festival, without having to demonstrate to the director that they have sought an authority from their local government.

Mr J.E. McGRATH: That is a bit like going to a laneway and finding cafes with tables out the front. They are all operating separate businesses but people walk in and then sit at various tables and chairs. That can be done in that circumstance, similar to Print Hall, where there can be little bars, and cafes can have chairs and tables out the front and serve alcohol without a meal and things like that. However, with the hotel situation in the suburbs, some hoteliers have said to me, "I've got a big hotel and a lot of staff. I want people to come into my hotel. I don't really want to be setting up something outside. We want them inside because that is where we are set up to serve people." Does the minister think that hoteliers will take this up?

Mr P. PAPALIA: I can guarantee the member that some will; for instance, the Vic in Subiaco. I visited that venue because my office had its Christmas lunch there. Its staff heard about this initiative and they were very excited. There is a car park at the back of the Vic. It is just concrete, but the staff there saw it as an opportunity to do something a bit different.

Mr J.E. McGrath: Couldn't they do that now?

Mr P. PAPALIA: No, they cannot do it now. That is the point. They cannot do it now and that is why we are enabling them to do it. Another example that may present an opportunity is when it is festival season and there are a lot of pop-ups in Northbridge sucking in some respects. The member for South Perth would get this from some of his constituents. Hoteliers and the like around the traps say that they have all the costs associated with an established venue when some temporary festival comes into close proximity with pop-ups and they fear that their clientele is drawn away from their premises. What can happen now, for instance, is that when Fringe World Festival is on and a place in Northbridge does not want to pay a contribution for being part of Fringe, they can still establish their own pop-up in their own car park adjacent to their premises, and attract people who are walking past as part of Fringe. They will add to the vibrancy and diversity of the offering. There is nothing to say that they will not be able to do that, and that will mean that they will not incur all the costs associated with paying the Fringe operators, but they will still potentially have the benefit. That is an example of how they might employ it. I know that there are people who view this as a positive. It also allows an ongoing permit so they do not have to seek authority from the director of Liquor Licensing to do this every time. The bill will remove a lot of obligations that will be imposed on pop-up operators elsewhere that are not attached to their own premises. The member must remember that clause 32 enables them to have a catering licence as part of their extended trading permit so they can establish a pop-up remote from their location and potentially collectively group with other outlets to establish their own festival in a remote locality.

Mr J.E. McGrath: That still means fragmenting their business. They have to send staff away —

Mr P. PAPALIA: It always does, member, but short of outlawing pop-ups, we were focused on enabling better opportunities for established venues. We recognise—I have some sympathy for their cause—that they incur a lot of costs and are vulnerable to some of their clientele being drawn away and their business being cannibalised, in

effect, by people who come in without anywhere near the extent of obligation. I understand that, and this legislation is about helping to provide opportunities. As I said yesterday, other moves are afoot to further address making things fairer. Ultimately, it is not my intention—I do not think that it is the intention of the government nor the member for South Perth—to ban pop-ups, because they are popular. It might be more about ensuring that there is fairness in how they operate.

Dr M.D. NAHAN: I am not so interested in Northbridge, where most of the festivals are. Let us take an example of a suburban setting where there is a tavern—a pub—next to a shopping centre and that tavern is tenanted to the shopping centre. The tavern does not have a lease over or own the parking lot. Will pop-ups be allowed under these arrangements? The shopping centre has the parking lot. Can pop-ups for this suburban pub go into the adjacent parking lot if, of course, the landlord allows it?

Mr P. PAPALIA: That is a good question, Leader of the Opposition. I know of a pub in my electorate that is at the end of a shopping centre and has an adjacent car park, but I imagine it does not control it because it would be attached to the shopping centre. I am informed that it will be within the powers of the director to determine whether to authorise that. I say on the record that subject to the director seeing it as not a risky decision, I would see that as being a positive outcome because further afield from where the festivals are, other communities around the metropolitan area and elsewhere could benefit from that type of festival feel and provide a bit of difference in the hospitality sector.

Dr M.D. NAHAN: I will explore this a bit further. I thank the minister for his response. I think that could be very popular in certain circumstances. Let us take a situation in which a shopping centre decides to have a festival, whatever that might be. Such festivals are often inside the building in the main mall, but let us say that it is outside in this case. A tavern is attached to the shopping centre. There might be more than one, but let us say there is one. Can we give that tavern priority to provide alcohol to the function? There are plenty of alcohol outlets in Northbridge, but in many suburban shopping malls, there is only one pub in the area, maybe two. I have never received a complaint about this; this is just a hypothetical. I have not received any complaints about pubs wanting to put up pop-ups or wanting to be the preferential provider of alcohol for functions nearby, even though there are sometimes functions. I think this is what we will try to explore. If they put a lot of money into developing the brand name for the pub at its location—in my area, it is the High Road Hotel—they will not want too much competition from pop-ups without them having the option to do so.

Mr P. PAPALIA: I do not think we can compel the provision of alcohol at a festival or something of that nature adjacent to the premises. If they control the land through lease or freehold, they will have first option on that particular site. They have invested, they train, they contribute to the community, pay their rates and the like. We have tried to make them more competitive by enabling them to use a catering licence as a component of their ETP without needing to seek authority from their local government. We will remove one of the steps that another competitor will have to take. We will make it a bit cheaper and more streamlined for them in competition with a potential competitor. The intent is to give them an enabler—a benefit out of the change. The other change is the land that they control.

With respect to whether adjacent car parks that pubs do not control can be incorporated, which the Leader of the Opposition referred to, I have put on the record what I would like and what I think would be a beneficial outcome but, again, it will ultimately be the director's determination.

Mr J.E. McGRATH: What about private land? If they have access to some private land, would they have to get council approval to put a pop-up on that private land?

Mr P. PAPALIA: That would only happen in the event that there was a private festival of some description and they are providing a pop-up service, having bid for it or arranged for it. The changes to the legislation allow them to employ their catering licence as part of their extended trading permit without having to serve food. A pop-up operator who does not have an established premise has to get a catering licence to serve food if they want to have a pop-up as part of a festival or something of that description.

Mr Z.R.F. KIRKUP: Out of curiosity, I have a lot of concerns that come from bricks and mortar establishments and pop-ups, particularly predicated around the size of the event or certainly the number of patrons who go into, say, Ice Cream Factory or something like that. In this circumstance, when an established licence holder might seek to hold a mini-festival or something like that, even if we used the Vic example with that multistorey car park, are there any capacity concerns or could they similarly hold a 5 000-person event?

Mr P. Papalia: That is a reasonable question.

Mr Z.R.F. KIRKUP: I imagine it might be something that is perhaps overseen by the director, but I am curious to understand what that might look like from the government's perspective.

Mr P. PAPALIA: At the moment, limiting the scale of pop-ups is not part of this amendment. However, as I indicated, in two weeks a forum will bring together players in the industry to seek a way forward on pop-ups. I am not sure I understand what the member is asking. I know that there are advocates within the industry who are suggesting that there should be two versions of pop-up regulation—one for the pop-ups attached to premises, because they will, by necessity, generally be constrained in size anyway. It would be an interesting venue that had the capacity to have a 5 000-person or whatever scale pop-up attached to premises. It might be possible. Advocates are suggesting that we have one set of regulations for the established venues and another set of regulations for the ones that move around and are attached to festivals. I am inclined to think that is probably a good approach because they are two different things. However, as part of this forum, it should be considered whether there should be some scale constraint on those ones as well. That is a reasonable question. I do not know the answer. It is not part of this legislation and we are not intending to deal with it here.

Dr M.D. NAHAN: I want to explore that area. I do not want to belabour the issue but let us say that a pub wants to put a pop-up in its parking lot, which is not a bad sized one. One of the objectives out of this, as I understand it, is that the pubs are regulated by their overall capacity—that is, so many patrons. This has a couple of ramifications. It allows the owner to potentially significantly expand the total patronage beyond what the community and the director of Liquor Licensing might expect. The other issue that I deal with is that the pubs do not like people walking out of the building with alcohol in their hand because they go walkabout and get up to no good. They often bring alcohol outside and do silly things. The pubs actually corral the patrons into the pub. The police like it too. I am not against this—it is an excellent step in the right direction—but sometimes once these steps have been made in an area that has been highly regulated, sometimes for good reason, we can get into a sticky situation. There are two issues: firstly, we could allow these pop-ups to significantly increase the number of people present on a Sunday when the West Coast Eagles are winning. Secondly—this is one of my biggest issues—people could walk out of the pub with a beer, and they could throw it and do other things. It does not just involve the pop-ups. The Fringe World Festival and other festivals have fences around them and guards to stop people walking out with alcohol.

Mr P. PAPALIA: The person who will oppose obligations and constraints on pop-ups is the same person who will impose the criteria around these pop-ups—the director. At the moment the director has deemed that a fence needs to be placed around pop-ups and the ratio of security people to patrons needs to be a certain number, and the director will also apply these obligations on the applicants. The member has identified the situation of why a publican would do it when he is having a bit of a whinge after having invested in bricks and mortar. The answer might be that it increases his number of patrons by a reasonable number that justifies the investment. They would not do it if it did not make them money or if it is not economical, but they might find that this gives them an opportunity. That may be the answer to the question of why they would do it.

Mr J.E. McGrath: On Melbourne Cup Day, some hotels have 200 people there, then, suddenly, they might have 1 000.

Mr P. PAPALIA: It might happen on St Patrick's Day too or something like that. There would be additional obligations on the pubs with respect to security, access and control of entry and egress and those sorts of things. In the same way that they currently have to comply, they will have to comply with additional constraints in that regard. But it gives them a bigger floor space and a little more variety, vibrancy and choice for the consumers.

Dr M.D. NAHAN: Does this apply to clubs also? The Willetton Sports Club in my electorate has a pop-up to collect money for the footy team. It is set up on the far side of the field, and they drink a bit of beer too and other things. We are pleased that they are over there because they are way out in the middle of nowhere and there is a great big fence around the playing field, so they are kind of corralled in there. I am sure this applies to everybody else. It is really helpful for a club that has a number of sports units in it to get access to the proceeds from selling beer, and that is allowed.

Mr P. PAPALIA: I am informed that anyone with a licence could apply for this opportunity. Again, it is at the director's discretion and they will determine the likelihood of any risk associated with a particular application, but there is nothing to stop them, providing they comply with the obligations of their licence. A club that normally sells to its members or legitimate visitors or travellers would still have to sell to the same people. Nothing would prevent them from doing that.

Clause put and passed.

Clauses 34 to 35 put and passed.

Clause 36: Section 65 amended —

Mrs L.M. HARVEY: Can the minister please explain what clause 36 is about?

Mr P. PAPALIA: This clause addresses the possibility that people under the age of 18 might be supplied with alcohol as a consequence of alcohol being delivered to premises—the order having been made remotely by

telephone or online or the like and paid for via the use of a credit card. It was part of the draft 2016 bill that the former government did not get to implement, but it had been prepared. I think it addresses what is essentially a loophole—a potentially risky opportunity for juveniles, for instance, to pinch parents' credit cards, order alcohol, not be there when it is delivered, and pick it up. The member for South Perth indicated that at the moment some of his constituents get home from work and it is sitting there on the front step. At the moment there is no way that the deliverer of that alcohol would know or be able to confirm that the person who ordered the alcohol was actually over 18. So it is to ensure that the delivery of alcohol is done in accordance with the responsible service of alcohol.

Mr J.E. McGRATH: The minister says this is primarily to address the delivery of alcohol to juveniles. How will it be known whether a juvenile actually took delivery of it? How will it be policed? We are moving into a new area now with so much online delivery of alcohol—wine and things like that. People buy it from interstate and it gets delivered to an address. I have bought wine from wineries in the eastern states, and either someone signs for it or they can leave it. There is no requirement one way or the other. How will this be put in place so that no-one will ever deliver alcohol to a property without getting even a signature or identifying who will be there? Also, will this impact on time-poor people—maybe a couple with no children but both people work—who are not there to collect it during the day, after making an online purchase? There could be serious difficulties with this.

Mr P. PAPALIA: Look, absolutely; people will not be able to come home and expect to find liquor sitting there in their absence. The obligation will be on the deliverer of the alcohol to ensure an adult signs for it or receives it. As to the actual details—I will retract the signing thing—the obligation will be on the individual, the company, the people responsible for delivering the alcohol to confirm they are delivering to an adult. That is just the same as going into a pub and expecting the bar staff to serve only people over 18. This is nothing different. The fact is we are now in an environment where people can order in a number of different ways. Until today that has not been addressed, and the obligation for the normal consideration of responsible service of alcohol has not been enforced or addressed in the extant legislation. That just demonstrates that it is time for the legislation to be amended. I do not imagine the Liberal Party is advocating the service of alcohol to under-18s. Were that to happen—were the Liberal Party to suggest that it is more important —

Mrs L.M. Harvey: That is a completely ridiculous assertion.

Mr P. PAPALIA: The member for South Perth just asked me whether this will be difficult for time-poor people because they will not be able to walk home and just pick up the alcohol on the step. Yes, it will be—cry me a river! That is all right, because we are about regulating alcohol to under-18s. People will not be allowed to sell alcohol to under-18s. Somebody who wants to sell alcohol to people will have to comply with the law. If they breach the law and are discovered to have done so, they will be charged. That business will be vulnerable to the full force of the law, and I would have thought that is a normal expectation. I am not saying that there will not perhaps be a change to how it is done right now. That is as it should be. It is not being done in a responsible fashion. In some parts of the world, where there is a lot of vulnerability to harm induced by alcohol—in remote communities, for instance—people are ordering alcohol remotely. Juveniles are ordering alcohol remotely. The police have asked that we close that loophole. The former government was asked to do it but it did not bring in a bill and get it through Parliament in 2016, otherwise it would not have to be done now. This is not one that should be disputed in any way. I understand that the member for South Perth just asked a question, but I am being interjected on because I am responding to the suggestion that it is somehow more important that someone be able to leave alcohol on the front step of a house than it is to compel them to seek an assurance that they have delivered it to an adult. I do not think that is a reasonable question. I actually think we should just be conceding that we should have done this two years ago.

Mr J.E. McGRATH: None of us believe that juveniles should be drinking, and no juvenile should be able to take delivery of alcohol. We understand that. We are asking about the workability. Maybe if I were not going to be there, I could have it delivered to my next-door neighbour who is 95, and say, "She's not under-age. Let her pick it up", and when I get home from work I will go and get whatever I have ordered on the day. I do not know. But we are talking about the workability of it and the requirements it will impose on Australia Post or couriers or delivery services; or will the onus be on the alcohol companies? Will it be on them or the people who actually deliver it?

Mr P. PAPALIA: Member, the obligation—the onus of responsibility—will reside, as it does now, with the people who sell the alcohol. They cannot sell alcohol to under-18s. That person will be obliged to ensure that the alcohol is delivered to an 18-year-old or above. The actual specifics have not been prescribed as yet, but they will probably include conditions like it will not be allowed to be left unattended. Maybe they might consider something like it has to be signed for by an adult, or something of that description—I do not know. But I do not think it is that big a stretch. It is the same sort of responsibility undertaken by bar staff when standing behind a bar serving alcohol. They are not allowed to sell it to under-18s, and if they are not sure they have to ensure they seek identification.

Mr J.E. McGRATH: Does the minister have any anecdotal evidence that there have been under-age people who have had alcohol delivered when they should not have? How big a problem is this?

Mr P. PAPALIA: You gave me the evidence! The member for South Perth told me his neighbour loves coming home to his sixpack sitting on his front step, having been delivered in the absence of any evidence that he is 18.

Mr J.E. McGrath: He is an adult!

Mr P. PAPALIA: It having been delivered in the absence of any evidence that he is 18. That means that there is a window of opportunity there for that person who received the alcohol to not have been 18.

Mr J.E. McGrath: Is it happening?

Mr P. PAPALIA: It could have been anyone! How do they know —

Mr J.E. McGrath: I want to know whether it is happening.

Mr P. PAPALIA: — delivering the alcohol. You gave me the evidence!

Mr J.E. McGrath: Is it happening, though, with juveniles?

Mr P. PAPALIA: If it is the same —

Mr J.E. McGrath: Are young kids out there getting —

Mr P. PAPALIA: If there is an opportunity —

The ACTING SPEAKER (Mr R.S. Love): Member for South Perth, you have asked a question. The minister is responding. You will have an opportunity to ask another question.

Mr P. PAPALIA: There is an opportunity. We are closing the loophole. We are closing the opportunity. We are trying to mitigate the risk that an under-18 could order alcohol and have it delivered and never be confronted to determine their age. That is all.

Dr M.D. NAHAN: One of the major changes to the liquor trade, particularly wine, is online deliveries. It has been growing rapidly. It is actually the most profitable line for Australia Post. So this will potentially—it depends how we understand its impact—have a very significant impact. Just let us unpick this a bit. Australia Post is not the seller of the wine; they are the deliverer. As I understand it, if Australia Post delivers wine on behalf of a customer or a client, the rules will be that it cannot do that because it is not the liquor store and does not have the licence, and it, therefore, cannot act on behalf of perhaps the liquor store and ensure that it is delivered to a person over 18.

Mr P. PAPALIA: No, member, it means that liquor could not be delivered unless there is evidence to the individual delivering it, and confirmation to the people selling the alcohol, that the person receiving it is 18; that is all. The specifics around the nuts and bolts of how that is accommodated and how Australia Post gets by to ensure the profitability of that part of its business will be determined when the regulations are framed. I do not think it is beyond the capacity of people within the industry and the department to determine a mechanism that ensures that those people do not break the law by selling alcohol to under-18s.

Mr J.E. McGRATH: Just further to that, as this is an area that I am not really experienced in, what happens now? We are told that it is a massively growing area. What do they do if they see an ad in the paper and order half a dozen bottles of wine or a carton of beer online? What is required by the supplier? Do they have to give them any ID?

Mr P. PAPALIA: There is an obligation for people to verify their age when they are placing the order, but obviously that could be rorted or manipulated. There is nothing to prevent someone taking an over-18's identity and presenting it remotely to the people selling the alcohol and having it delivered. In the event that they are not confronting them at that point, they could effectively get alcohol as an under-18. The intent of this is to change that. I can tell the member that I do not get my wine through Australia Post; I have a friend who delivers it —

Mr J.E. McGrath: Free of charge!

Mr P. PAPALIA: No! Well, he does, actually. He delivers it free of charge, but we buy it from a producer who comes and delivers it. He would always know who he is delivering to, but that is not always the case at the moment. The intent is to shift that to ensure that when possible we mitigate, diminish and hopefully eliminate the risk of under-18s being able to order remotely without ever being confronted for proof of identity and then being supplied with alcohol.

Mrs L.M. HARVEY: Just to clarify, is this sales or delivery-focused? The reason for my question is that I am thinking about cellar sales in the south west, for example. When I have visitors from the east coast come over and do wine tours of the south west, they will order two or three cartons of wine from the cellars and have them delivered to Melbourne or Sydney. If the wine cellar is based in Western Australia with a Western Australian licence to sell packaged liquor, and that alcohol is being delivered to Victoria and New South Wales, how do we ensure that this rule is enforced?

Mr P. PAPALIA: The requirements have not been prescribed as yet. They will likely include conditions related to liquor not being left unattended, and requiring an adult to sign for and take possession of the delivery in our jurisdiction. This is the sort of detail that will be determined in the process of deliberations around regulations.

I have said that quite a few times now. If you are just going to keep going around in circles, I do not think we are going to achieve anything. I am not going to be able to say what the specific nature of the process will be, because that has not yet been determined.

Mrs L.M. HARVEY: We understand that the minister is saying that more of this information needs to be worked out, but as I said earlier in this place, the Legislative Council likes to have as much detail in the legislation as possible, and the likelihood is that a clause like this might not go through unless we can fully articulate how it is going to work.

My understanding of the reason this provision was put into our legislation—I am probably a bit rusty; it is a while since I was involved in the consultation for it—was so that we could prescribe an area that is out of bounds for delivery; for example, a dry community under section 175. We can actually prescribe that there can be no delivery into that postcode. For the purposes of schoolies week, for example, at Rottnest or Busselton–Dunsborough, we could in the regulations prescribe schoolies week in Busselton–Dunsborough as being a prescribed area that prohibits the delivery of alcohol except to an individual who can be identified as being over-18. That makes a lot of sense, because I know police around schoolies, for example, would find that —

Mr P. Papalia: Can I answer by way of interjection?

Mrs L.M. HARVEY: I will just finish what I am saying. Police would see cartons and cartons of alcohol being delivered to unattended houses and obviously the schoolies would be on their way down and the grog would be there. This was obviously designed around controlling those sorts of events, more so than generally having carte blanche control over packaged alcohol delivery across the state. I suspect this is probably going to shut down a significant portion of the online delivery service because it will be quite difficult to verify and ensure that the person who purchased the alcohol is over 18 and is going to be home. Most people might be ordering from work because they want the alcohol delivered. If they are fly in, fly out workers, they might want to have their carton delivered for when they come in on the plane, because they are not going to be there to receive it. That is how a lot of this business is done. My question is: can the department provide us with any details on how this might operate? The minister is saying that it all has to be done yet, but surely the department must have some idea about how it is going to work and how we are going to ensure that the purchaser of the alcohol is over 18.

Mr P. PAPALIA: The member is rusty, I am sorry. The clause to which she refers is the sly grogging component of the legislation. That was —

Mrs L.M. Harvey: No, it's not.

Mr P. PAPALIA: I guarantee the member that the clause to which she is referring is the sly grogging component of the legislation through which, as with section 175, there will be an opportunity for the police to intercept alcohol coming into a prescribed area, except we will extend the range. That is what the member is talking about. With regard to the changes, yes, there will be changes to the current practice. That was what the member's government identified in the 2013 inquiry as a flaw and a vulnerability, because under-18s could be delivered alcohol after ordering remotely without having ever having been compelled to confirm their age. That is a different clause—this clause. The intent of the member's legislation, which was never presented to Parliament but was drafted in 2016, was to do exactly this in respect of the practice in which, as the member says, people come home, and there is the alcohol. As I said, no sympathy; it will just have to be accommodated in changes of practice to ensure that children are protected from the harmful impacts of alcohol until they turn 18.

Mrs L.M. HARVEY: With respect, I may not have made myself clear, but I do actually know what I am talking about and what my conversation was around this particular clause at the time. My conversation on this clause way back then was with police. Police were quite excited about the prospect of being able to have a schoolies precinct prescribed as a non-delivery area for the delivery of alcohol. That was a conversation I had around this clause. The sly grogging clause further on, around section 175 communities, I absolutely, 100 per cent, agree with. When we get to that, I can guarantee the minister my support for those provisions. But my understanding of the conversations I had on this clause at the time is that it would give the police a mechanism to rule out a couple of postcodes for delivery at specific times around schoolies. I put on the record that I raised two issues, but the delivery of alcohol into dry communities is, I agree, covered off at a further clause.

Dr M.D. NAHAN: I know that the regulations and details have not been finalised. This is a big industry that is under real challenge. I understand the issue that the minister does not want to allow the transfer of alcohol to underage people. However, I would just like to be assured on a couple of aspects. Firstly, the delivery of the alcohol can be contracted out to someone else, rather than the licensee. Secondly, I assume that deliveries of alcohol, like

a lot of deliveries, will be signed for by somebody. It is not just left at the door without a signature; they take it back to some other place, and the customer has to go and fetch it from the post office or whatever. I want some assurance about the approach the government will use to allow deliveries where the recipient is identified, and therefore determined to be of the right age, rather than the delivery being contracted out. There are a lot of changes here, and we are worried that the government might put in place changes that will inhibit the delivery of alcohol, rather than addressing the issue of underage drinking.

Mr P. PAPALIA: Of course we are going to inhibit the delivery of alcohol. The whole intent is to do what the previous government intended to do, but never got around to doing, in 2016. By way of example, New South Wales already does this. It is not that big a deal. It imposes an obligation on the supplier of alcohol to seek proof of age at the time of the order, and subsequently the supplier must have a responsible arrangement with the delivery agent. It is just something that happens.

Dr M.D. Nahan: That is what we're seeking.

Mr P. PAPALIA: I have said that several times.

Dr M.D. Nahan: No, you haven't.

Mr P. PAPALIA: I am not saying that that will be the case. Just so that the member understands, I am not saying that that is what will happen here. I am saying that the detail of the obligations will be determined at the point of developing regulations. It might look something like the New South Wales model, but it is not rocket science to determine that people selling alcohol have to confirm that they are selling it to someone over 18. They already have to do that. Subsequently, the people delivering it will have to do the same thing. In New South Wales the responsibility resides with the people who are selling the alcohol; they have to get an agreement with the deliverer. That may be the case here in WA, or it may not be. I do not know because I am not yet at the point of developing the delivery regulations.

Dr M.D. NAHAN: Just a comment: Parliament has no input into or involvement with regulations; we see them once they have been gazetted. The Legislative Council reviews them, and they are tabled in Parliament but developed outside Parliament. Generally when legislation is brought in, there are some general principles about what path the regulations will follow. That is all we are asking for. If we follow the New South Wales model, that is great. What I have asked repeatedly, and I have not been getting any clear answer, is whether we allow the deliverer to be the agent, under certain conditions, for the seller of alcohol. The agent, as is done now for many deliveries, checks the bona fides of the recipient to make sure they are the appropriate recipient, and whether they are over 18 or otherwise. We will investigate the principle upon which the government will make subsequent regulations.

Mr Z.R.F. KIRKUP: I hold concerns similar to those of the Leader of the Opposition, unsurprisingly. The concern is the lack of regulation that comes with a delivery service or a courier service. I have been reading about the law in New South Wales. I think it has been more recently introduced. I could be wrong, but I realise that it has been implemented there. For all intents and purposes, liquor stores over there still manage to deliver to people at home, and they very specifically state that the person has to be over 18 when receiving a package. I am keen to understand, given that I do not think the state regulates courier services and the like—obviously it is not the domain of the Minister for Racing and Gaming, but of the Minister for Transport—whether the government has consulted at any point with any delivery or courier service, such as Toll, to make them aware that this is coming in. As I understand, in most cases liquor stores rely on a carriage service or courier service; they have an arrangement in place. I am keen to understand whether the minister knows what those arrangements are, and whether we have already gone to them.

Mr P. PAPALIA: I could read out the legislation from New South Wales, but it pretty much just states in a little more detail what I have been talking about. We have not consulted with couriers, but we have with Wines of Western Australia, for instance, which has indicated its willingness to absorb the costs associated with any obligation. Those are the people the member for Scarborough was primarily referring to. Wines of WA represents those people. Beyond that, there are other players who deliver beer in smaller volumes and at short notice. Obviously there will be a consultation process associated with drafting the regulations, so if it is Uber, for instance, or Uber Eats or whatever, I am sure they will be consulted at the time. I do not imagine that those services would balk at absorbing the costs associated with this process. All it involves is engaging in an agreement in writing with whoever is delivering that they are responsible. That is what they have done in New South Wales. It may be what happens here or it may not be, I am not sure, but whatever the process, I do not think anyone would reject the suggestion that we should have responsible service of alcohol. That will ensure that the industry is sustainable. As long as people comply with the law, they will be okay.

Mr Z.R.F. KIRKUP: Further to that, the legislation, as put to us, does not speak to or suggest that that will be the case, but I am obviously very keen to make sure that the carriage service, or whatever is being used —

Mr P. PAPALIA: The regulations will go through a regulatory gatekeeping unit, but beyond that they are also subject to disallowance. The suggestion that there is no recourse is not really fair. Regulation is governed by Parliament, so it will be subject to review.

Mr Z.R.F. KIRKUP: I appreciate the minister's view. My concern is indemnifying, I suppose, the delivery agent in this case; so, for example, if I am the liquor store and the minister is the customer, and I use a carriage service to get it to him. Obviously, the liquor licence holder should be liable for selling alcohol to anyone who is under 18 years of age, but my concern is the carriage service that will be used. If that person does not sight it, will someone who is not necessarily trained in the responsible service of alcohol, who is the delivery agent, possibly be breaking the law once this becomes law? As such, should the onus of proof not really be on the licence holder, or the seller, in the original case, rather than the carriage service being used?

Mr P. PAPALIA: It is, in the New South Wales case, and that may be what is resolved here, but I cannot indicate definitely that that will be the case. We are going to have this consultation; there will be deliberations about where the onus should properly reside, and then it will be determined.

Mr Z.R.F. KIRKUP: Again, just to clarify, within this amendment is there a possibility that big barn outlets could be restricted from providing alcohol into excluded areas? This does not change that. I will clarify: if a big barn outlets has been restricted from Maylands, for example, can it still deliver into Maylands?

Mr P. PAPALIA: Effectively, any supplier of alcohol could deliver anywhere, really. We just have to comply with the obligations in this legislation.

Clause put and passed.

Clauses 37 and 38 put and passed.

Clause 39: Section 69 amended —

Ms L. METTAM: These changes have been described as providing Tourism WA—representing tourism, community and cultural interests—with equal weight to police and health. Although the explanatory memorandum states that the CEO will be granted similar powers to police and health, why was tourism not incorporated in the primary objects of the act?

The ACTING SPEAKER: Acting Minister Johnston.

Mr W.J. JOHNSTON: I am not acting minister; I am a minister. I am just filling in for the other minister.

The ACTING SPEAKER: You will do a wonderful job.

Mr W.J. JOHNSTON: Yes, I am sure.

The object of this clause is to give equal weight to representation of tourism bodies in the licensing process. The current provisions of section 69 allow the Commissioner of Police, the Chief Health Officer and the local government authority to intervene in an application before the licensing authority. This amendment establishes a mechanism that will afford the chief executive officer of Tourism WA the same ability to intervene in proceedings. The chief executive officer will be permitted to introduce evidence or make representations regarding the tourism outcomes of a particular application or any other matter relevant to the proper development of the tourism industry. It is expected the intervention will be evidence based. Interventions could also be lodged opposing an application.

Ms L. METTAM: Obviously the CEO has a role in licensing decisions, but I am wondering why Tourism WA or tourism is not elevated to one of the primary objects of the liquor licensing act.

Mr P. PAPALIA: Under "Objects of Act", section 5(1)(c) states —

> (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

The intention of this change is to further elevate the prominence and consideration afforded to the tourism industry as an important sector and contributor to Western Australia, to our economy and to driving the creation of jobs. That is to elevate the CEO of Tourism WA to the same status in considerations in regards to liquor licensing as the Chief Health Officer and the Commissioner of Police.

Ms L. METTAM: I obviously welcome the involvement of the CEO of Tourism WA in this decision-making process. The question I have is around how those determinations are made, whether there is an obligation for the board to be consulted, for the board decision to be ratified, and then questions around who will have delegated authority in the absence of the CEO. I want to ensure that the decision undertaken by the CEO for Tourism WA is in fact not an independent decision that is made amongst the other decision-makers but, instead, purely representative of the tourism industry.

Mr P. PAPALIA: The director general of the Department of Jobs, Tourism, Science and Innovation is the CEO of Tourism WA. The director general would make a submission to the director of Liquor Licensing at the behest of a proponent in the tourism sector. It is an operational matter. They would be acting in an advocacy role on behalf of a proponent in the same way as, for instance, the Chief Health Officer or the Commissioner of Police would be acting on behalf of their constituency. The Commissioner of Police would make an intervention on behalf of the police force. They would be doing it on the grounds of implications for community safety and the like. The tourism CEO will now be able to make an intervention; that is, put the case for a proponent on behalf of the tourism sector to say that this is a good thing. I will give an example. Prior to the Como Hotel's opening, there was an application for a 24/7 liquor licence. It was clearly not a very high risk proposition. I do not know for sure, but I imagine there would have been a response on behalf of police and potentially on behalf of health, but there was no opportunity for equal weighting or an equal contribution to be made on behalf of tourism. The value of having a 24/7 liquor licence at such a prestigious hotel in the centre of Perth is clear. It is significant and worthy of support from the tourism sector and worthy of that part of government that is responsible for acting on behalf of the tourism sector. That is the sort of environment in which I would envisage this sort of submission being made. It is not something that has to go to the board because it is just an operational matter.

Clause put and passed.

Clause 40 put and passed.

Clause 41: Section 72A inserted —

Mrs L.M. HARVEY: I would like the minister to explain this clause. I understand that this allows submissions from individuals other than those who are identified in section 69 who are in support of or in opposition to an application—is that correct?

[Quorum formed.]

Mr P. PAPALIA: This is a clause that we inherited from the former government as a consequence of the 2013 inquiry and was in its draft bill in 2016 but was not introduced. I am advised that the intention was to facilitate an easier pathway for individuals in the community to make their concerns known without having to make a formal objection; for example, an elderly woman who might not have all the resources and the capacity of some other players in the community to go through the formal objection process. It will enable those people to make a submission in an easier fashion. As I say, it was something that we inherited. Effectively we thought: that is a reasonable idea. We will continue with that one and introduce it with this amendment.

Mrs L.M. HARVEY: It is legislation the minister is putting forward now. I seek clarification about why he would not require the director of Liquor Licensing to acknowledge receipt of a submission.

Mr P. PAPALIA: I am advised that it does make sense; it might elicit a large number of individual submissions. The intent is to free up red tape and facilitate the opportunity for people who might not otherwise be able to make their concerns known, but not to overburden the director and the process. We do not want to slow things down. The intent is to facilitate some other opportunity that might not have been there before.

Mrs L.M. HARVEY: I understand that, but in the modern age it is likely that these submissions will be lodged by the vast majority of people online in some format. An acknowledgement is a very simple thing to generate through an online portal or via email to say, for example, "The director acknowledges receipt of your submission or email." It is not burdensome for the director to acknowledge that he has received a submission from an individual in the community. I put to the minister that if a person has gone to the trouble of making a submission, it is reasonable to receive an acknowledgement from the director of receipt of the submission. It is not a response from the director and it will not require the director to respond and address the concerns of every single submission; it is just to acknowledge that the director has received the submission. I would have thought it was sensible to do that and perhaps something members in the community would expect.

Mr P. PAPALIA: That is a reasonable suggestion. We will explore that during the consultative process of the regulations being composed. Not all such submissions would be made electronically. I have some sympathy for the department's concern that we might end up creating a mechanism for delaying things by overburdening the process with thousands of handwritten letters that all require a response. Nevertheless, if it is done by electronic means and there is capacity to have an automatic response, I think that is a reasonable suggestion, so we will investigate that.

Mrs L.M. HARVEY: I propose an amendment, minister. I move —

Page 29, line 17 — To delete the words "may, but need not," and substitute —

must

I have moved this amendment because when individuals in the community take the time to make a submission, it is perfectly reasonable to expect the director of Liquor Licensing to acknowledge receipt of a submission they put time and effort into lodging with the commission or the department. This is a minor amendment. I cannot see that it will add some onerous workload onto the director. It is quite a simple thing that can be achieved and I urge the minister to support the amendment.

Mr P. PAPALIA: Member, we will have to agree to disagree on this one, unfortunately. I fear that by compelling a response in the manner the member is suggesting, we may have the unintended consequence of overburdening the director. A large component of this Liquor Control Amendment Bill is about freeing up, liberalising and energising our hospitality sector and creating opportunities for innovation, vibrancy and additional employment. I will not risk saddling our hospitality and tourism sector with any additional administrative burden that we do not need to.

Mrs L.M. HARVEY: I think the minister is being quite unreasonable. We could insert after "submission", "according to a prescribed format", which then would give the minister by way of regulation an opportunity to look at an acceptable, if you like, expectation of the director to acknowledge receipt of a submission. One of the big complaints people in the community make about government agencies, members of Parliament and all these areas is that they take the time to write to government agencies to express their views; they put effort into that attempt, and there is nothing to compel any of those public servants that their taxes are paying for the employment of to even respond unless they choose. This would compel the director to say, "Yes, I acknowledge receipt of your submission." It is not unreasonable. It is not a difficult thing to set up. If someone lodges online, a receipt mechanism could be set up as part of the systems. It is dead easy. We all do those sorts of things in Outlook every day. I think the minister is being unreasonable in not accepting one very small amendment given the opposition has accepted half a dozen of the minister's amendments that have been drafted and brought to this place at the last minute.

Mr P. PAPALIA: As I said, we will just have to agree to disagree. I accepted a very reasonable amendment from the member for South Perth very early in debate on the bill, perhaps when the member for Scarborough was not here. That aside, I cannot agree to this. It would result, in my view, in unintended outcomes in the form of a campaign, for instance, to delay a liquor licence approval by people writing letters of complaint and demanding process from the director, and I do not intend to slow things down. We are about facilitating tourism outcomes, vibrancy, diversity and opportunity in the hospitality sector. We are not about red tape so I cannot agree, sorry.

Mrs L.M. HARVEY: What is sought to be introduced is an opportunity for more individuals to put submissions in supporting or objecting to a liquor licence. Requiring the director to have an acknowledgement email on receipt of those admissions will not slow down the process. What will slow down applications is the opening up of an opportunity for a large number of individuals to intervene in the process and object or support a liquor licence application. Just by opening it up, the minister has potentially added time to the processing of an application, because if 300 submissions are made, whether by email or the sorts of campaigns that plague us as members of Parliament in our daily life, there is an opportunity to do this by virtue of this proposed section. Having the director acknowledge receipt of those submissions will not slow down the process. It would be almost an automated process in this day and age, so his comment on that made no sense.

Mr P. PAPALIA: As I indicated, the suggestion that an automatic response by email be established as part of the process is quite reasonable, and I said we would accommodate that in the deliberations around crafting the regulations. But I am not prepared to open up an opportunity for an obligation on the director to engage in a whole lot of paperwork if submissions are made but not by email. I assure the member that we will investigate the opportunity for an automatic electronic response in the event of an email submission. But for other submissions, I do not want to further burden the director with any other red tape. The intent is to remove red tape and to facilitate vibrancy, opportunity and diversity in our tourism and hospitality sector, so we will have to disagree on this one.

Mrs L.M. HARVEY: I flag that I do not intend at this stage of the day's sitting to divide on this issue. Obviously, it is a somewhat frustrating exercise for members on this side of the house in any event, given only 12 of us are here at the moment, soon to be 13 once the new member for Cottesloe is sworn in. We will certainly bring these matters forward with our colleagues in the other place, and indeed a different outcome might be achieved if they see merit in what I have proposed.

Mr P. PAPALIA: Thank you, member; I appreciate that. I have engaged, and continue to engage, extensively with all players in the upper house. My intention is to ensure that they understand the support for this legislation throughout the tourism and hospitality sector, and also the strong and determined support of many of the small businesses in the electorates of members opposite, in our electorates, and in the electorates of upper house members. There is an overwhelming desire for this legislation to pass rapidly. I am pretty comfortable that reasonable people in the other place will understand that.

Amendment put and negatived.

Clause put and passed.

Clauses 42 and 43 put and passed.

Clause 44: Section 77A inserted —

Mr J.E. McGRATH: This clause seeks to insert a new section 77A, "Restrictions on alteration or redefinition of certain packed liquor premises". This issue was raised by some of our members during the second reading debate. The owner of a liquor business might want to expand the size of their business due to an increase in population density in their area. There might even be what we term a liquor barn not far away, but it is a small family-owned business, and they know their clientele and believe they can succeed. We as Liberals and champions of small business would say that people should be given the opportunity, if they so desire, to grow their business and take on the bigger operators. In my electorate of South Perth, people like to support small businesses and local operators. We are also concerned about the restrictions with regard to prescribed area and prescribed distance. A person may own a hotel with a bottle shop or liquor store that is 300 square metres in size, and they want to expand their business to 400 square metres. However, if 400 square metres becomes the prescribed area, they will not be allowed to do that. This will be an impediment for a hotel owner who is struggling to attract patronage and believes there will be a better return if they can sell packaged liquor.

Mr P. PAPALIA: It will be an impediment to the extent that they intend to create a liquor barn. This is complementary to clause 18, which we have discussed extensively. It is focused on enabling and empowering communities around the state to say, "Thanks very much, but enough is enough. We have enough liquor barns in our area." A community should not be burdened with an increasing number of these enormous establishments regardless of the reasonableness of access to alcohol in their area. This will prevent someone from buying a hotel that has a liquor outlet through a drive-through or something of that nature, gutting it and turning it into a liquor barn. That would undermine the intention of the amendment and the thrust of the legislation with regard to liquor barns. If someone intends to expand their premises, that might be fine. It would be subject to similar criteria as are imposed in clause 18. If the application was for a premises that was outside a certain square metreage and a certain range, yet to be determined, of another liquor barn or another packaged-liquor outlet of that scale, the director would be prevented from considering the application. If the intent of the application is to expand and change the scale and shape of the premises, and it did not exceed those limitations, obviously this amendment would not restrict them.

Mr J.E. McGRATH: What if their application was for a packaged-liquor outlet with a prescribed area of 395 square metres and the minister is proposing to prescribe 400 square metres? What parts of their liquor store would be included in the prescribed size? Would it include storage and display areas?

Mr P. PAPALIA: With respect to the retail section as described in proposed section 77A(1), it is that part or parts of the premises in which packaged liquor is displayed for the purposes of sale or is sold from.

Mr J.E. McGrath: If it is just for display and not for sale, that is okay?

Mr P. PAPALIA: It says, "sale or sold".

Mr J.E. McGRATH: So, display for the purpose of sale, or sold?

Mr P. PAPALIA: Yes.

Mr J.E. McGrath: It might be a display just to advertise the brand.

Mr P. PAPALIA: It applies to where it is displayed or sold. I am advised that if is on display in that premises, it would be incorporated in the retail section.

The member also asked about proximity to the prescribed area once that has been determined. If the application was for 395 square metres and the prescribed area was 400 square metres, I imagine that would be fine. That will be a determination of the director, subject to whatever scale, range and geographic distance is prescribed. It will always be subject to the director's discretion. The wording of this proposed section will prevent consideration by the director if the application exceeds the prescribed distance and square metreage. That is specifically stated in the legislation.

Mr J.E. McGRATH: I know we have one regional member here, but it occurred to me today that it would be good to get a map of the metropolitan area that designates where the existing—what we call—big barns are located. I gather that the prescribed distance will be as the crow flies, not along the main highway. There would also be a radius, such as is used by the Minister for Planning when they set up a new town planning scheme. For example, they may say that around a railway station, an 800 square metre area can be developed, so they put a circle around the train station. Would the minister's office or the department have a map so that we could see how this would

impact all our electorates with existing big liquor barns? Some electorates might get one and in other places they might be told that they are not going to get one because they are within the prescribed distance of five kilometres.

Mr P. PAPALIA: I do not have a map. However, we can probably undertake to produce one prior to the Liquor Control Amendment Bill 2018 getting to the other place. The member knows about the ones I referred to being 600 square metres, but we might go further left of that. We will see how we go because that might be more challenging. We have got the 600s—we know where they are—but maybe we can go to 400 square metres or bigger, if we can. It is not a big agency but we will do what we can to get a comprehensive map of those that currently exist, and then the member and others in the other place will get to consider it before the bill gets there.

Mr J.E. McGrath: Thank you.

Mrs L.M. HARVEY: Just to be clear on what this section does: say I am a hotelier and I have bought a hotel and, after operating it for a couple of years, decided that the only way I am going to stay afloat is to increase my retail portion of it. If I am within five kilometres of a premise that is over whatever the prescribed area is—450 square metres or whatever—will I not be able to expand my retail premises beyond a similar prescribed area? Is that what this provision does?

Mr P. PAPALIA: I understand the member's questions and the reasoning for them. I have had quite robust advocacy from the Australian Hotels Association on behalf of some of its members, not necessarily large numbers but some of them, about this issue. Yes, in so much as if the hotelier wants to expand beyond whatever the prescribed square metreage is, and it is within the prescribed range of another one, they will not be able to. Ultimately, as the Premier indicated in question time, it is a judgement decision that we have made to empower communities and enable another avenue to restrict the potential proliferation of these large outlets.

Mrs L.M. HARVEY: I remember in my consultations with AHA over various years that one of the issues it raised with me is that Woolworths and Coles will buy a pub, basically run it for a couple of years and then refit the entire pub into a retail outlet. Is this legislation designed around stopping those two majors from embarking on that activity?

Mr P. PAPALIA: Only in so much as they would be exceeding the prescribed scale and proximity to another one. This provision does not target any particular operator. The same rules would apply to everybody, and that is why, as I say, I have been lobbied or had the case put by the AHA on behalf of two or three of its members that would aspire to potentially expand the footprint of their premises to beyond what we might be considering within the range of another such outlet. They have been quite robust in their advocacy, but I have said to them, no, and that in this particular case we have undertaken to empower communities and to restrict the proliferation of these large places, and that will be the consequence. If a company owns a pub or if it is going to buy a pub with the intent of turning it into a liquor barn, it may be prevented from doing so through proximity to other such places.

Mrs L.M. HARVEY: Does the description of "retail section" in this clause cover off on the entire area of a drive-through, for example, or would it be only the retail boundary of the drive-through?

Mr P. PAPALIA: That is a very good question, member. I should have stated that because I have been asked about it. It is not the intention that drive-throughs be incorporated into the square metreage of whatever determination is to scale. That would not be fair and it is not the intent. It is the actual floor space, and "retail section" incorporates, as I said before —

> … part or parts of the premises on which packaged liquor is displayed for the purposes of sale or sold.

Most drive-throughs are just a driveway, and it would not be right.

Mrs L.M. HARVEY: Once the minister gets to drafting the regulations, I ask that he consider the "prescribed distance" being the actual travel distance between premises rather than as the crow flies. When we look at how the metropolitan area has developed over time, sometimes there are quite significant barriers, such as the river, parts of ports and those sorts of things, and if we are going to prohibit the opening of the large retail stores, for example, on opposite sides of the Swan River at its widest point, the prescribed distance is rendered somewhat nonsensical. I request that when the minister drafts the regulation he make "prescribed distance" the actual travelling distance along the shortest route by road between the two venues to ameliorate any anomalous outcomes like that.

Mr P. PAPALIA: I can see the member's point. I fear that it might be problematic, but I will undertake to get the drafters to consider it and look at what might be done. If we have all manner of convoluted roadways and potentially changed traffic arrangements and the like, that might be a very complex thing to determine. Nevertheless, I will undertake to get them to consider it.

Dr M.D. NAHAN: Just on this matter, the minister stated that he really wants to empower communities. If an existing pub or tavern with a bottle shop is within the prescribed area of a big barn, as gazetted in the future, what would happen if the community wanted it? Would the director of Liquor Licensing, or whoever, receive a petition

or a delegation from the community saying that it wants this competition—because it might happen—and then he or she would then have the discretion to override the blanket ban when the community wants the expansion?

Mr P. PAPALIA: I am not sure I can envisage that happening. Nevertheless, as a potential outcome, it might occur. I will leave that petitioning and advocacy to Parliament. I want legislation that will work and that empowers the director and makes it very clear what our intent is. In the event that there is such groundswell of demand for additional service or access to a liquor barn, I am sure that the local member of Parliament can represent the interests of their constituents, bring it into Parliament and demand change of the then government—whoever it is—and therefore, ultimately, the regulations might be changed to reflect that demand or groundswell that I do not perceive to be out there at the moment.

Dr M.D. NAHAN: The answer really is no. I asked whether it is in the domain of the director of Liquor Licensing to alter these blanket rules of quarantine of gazetted area and size to accommodate the desires of the local community. The minister has basically said no and that we have to get the government to change this.

Mr P. PAPALIA: No, there is an opportunity through change to the regulation, but I do not at the moment envisage including in the legislation the opportunity for the director to take advocacy or petition from the community and then change, of his own volition, the regulations. I envisage that the government will change the regulation using the same practices as is now extant for any other type of regulation. Lobbying, petitioning and advocacy with the government of the day can result in change to regulation; that happens now. I assume that is the best way to proceed with this particular regulation.

Dr M.D. NAHAN: Why? The minister argues the case on the basis that this is about empowering communities. The minister has put in these general regulations and restrictions—I understand those in Maylands and South Perth—but he could easily envisage a situation in which there has been substantial infill, a large increase in population, and the community wants an expansion of service. In the interests of addressing the community's desire, why will the minister not allow it? It might not happen often—I accept that—and the community would have to express it clearly and in no uncertain terms, but I cannot see why the minister will not give the discretion to the director of Liquor Licensing.

Mr P. PAPALIA: Member, we will just have to disagree again. I have made it clear that the government intends to empower communities across the state to say that they have enough liquor barns, there is enough alcohol—a reasonable supply—and reasonable access to packaged-liquor outlets. This is our mechanism to achieve that. We do not believe there is a need for the director to have the opportunity to determine of his own volition that there is enough of a groundswell of public opinion to change that determination. If there is such a groundswell—if there is such a huge wave of demand for a liquor barn in any particular suburb or any electorate—they can go to their member of Parliament. If they have a good member for Parliament like the member for South Perth, I guarantee the member will be in here pounding the desk and demanding change. We will just have to disagree.

Mrs L.M. HARVEY: As a person who has operated retail outlets for over 20 years—not in the alcohol sector; in a different sector—I want to flag what I see. At the moment the minister is acting with all good intentions and believes that these large liquor barns are a big cause of harm in our society and all those sorts of things, and I understand that is the motivation. But when governments seek to limit and control the way businesses choose to operate for the purposes of profitability and providing a product to consumers at a price that consumers are prepared to pay—all those things—there will always be anomalous outcomes. I want to flag that we lost the vote on clause 18—this clause almost exactly mirrors clause 18, but applies to existing premises rather than new premises—so I do not believe it is our intention to divide on this matter at this stage of the proceedings. However, I want it noted in *Hansard* that there will be anomalous outcomes as a result of this legislation. There will be very small mum-and-dad proprietors who might own one premise who will be financially impacted as a result of these clauses. There will be individuals who, in their own best interests of expanding their family business, will be prohibited from doing so as a result of this clause. The minister is saying it is all in the name of restricting alcohol and the community's access to the large outlets. I understand all that. The minister has explained it well. But before this goes to a vote, I want *Hansard* to record that I predict anomalous outcomes and that there will be impediments to family businesses being profitable and running their businesses the best way that they see fit. That is what this legislation will do. It basically says to business owners that the government will control what they can sell, where they can sell it, and how many square metres of space they are allowed to sell products in. Further down the track—probably in several years' time, after the impact of this settles into the community and businesses start to understand what has happened here—I strongly suspect we will follow the pathway of the Northern Territory and unwind these protectionist clauses and the protectionist aspect of this legislation.

Mr P. PAPALIA: Yes, member, I appreciate that we disagree on this one. We have consulted widely. There is a significant amount of support for the intent—particularly amongst small businesses in the packaged-liquor outlet game. There is plenty of support there. I think there is also plenty of support across the community insofar as

empowering communities to be able to restrict the proliferation of liquor barns. But I appreciate the member does not agree.

Clause put and passed.

Clause 45: Section 95 amended —

Mr P. PAPALIA: I move —

> Page 32, lines 10 to 19 — To delete the lines and substitute —
>
> (2) In section 95(4)(k) delete "of the licensee; or" and insert —
>
> of —
>
> (a) the licensee; or
>
> (b) an employee or agent of the licensee; or
>
> (c) a person acting, or purporting to act, on behalf of the licensee;
>
> or

Mrs L.M. HARVEY: I request that the minister explain the need for this amendment.

Mr P. PAPALIA: I acknowledge this amendment is late. That is because the submission made in regard to the nature of the amendment was made late by the sector. The Australian Hotels Association, on behalf of its membership, sought to change some of the wording. It is more about technicalities. It is more that the AHA feels it more fulsomely accommodates the licensee being able to have their employees and those acting on their behalf included in the legislation. There is a different sort of wording in the bill. The AHA also sought for us to remove the word "omission", so that the legislation then reverts to "neglect", which is what the AHA saw as a better outcome. I have no particular objection.

Mr J.E. McGrath: Why has it taken so long?

Mr P. PAPALIA: The AHA had to seek advice; it takes a while. It has had delays in getting the opportunity to make that advocacy. It was not done through telephones or anything; we had face-to-face meetings. That is what it last sought.

Ms L. Mettam interjected.

Mr P. PAPALIA: I am happy for members to debate it if they do not agree with it, but it will not make a significant change to this part of the bill. It is just a change to the wording. I had no particular ownership of the old wording and I had no particular concern with the proposed new wording, so in the interests of trying to accommodate the industry's desires as much as possible we moved the amendment.

Mrs L.M. HARVEY: With respect to this amendment, my understanding is that it actually covers off on injury or any other act perpetrated on—does it cover off on crowd controllers as well?

Mr P. PAPALIA: Sorry, member, I was seeking advice. You can ask again by way of interjection.

Mrs L.M. Harvey: I'm seeking to understand whether this is specifically limited to the actions of crowd controllers, or is —

Mr P. PAPALIA: No. It is a person acting or purporting to act on behalf of the licensee, so that includes crowd controllers and other staff. The AHA's concern was that in the past, the paragraph that is being replaced stated —

> the safety, health or welfare of persons who resort to the licensed premises is endangered by an act or neglect of the licensee;

The AHA felt that its members might be vulnerable to an employee or someone they have engaged acting in an unlawful fashion or in an irresponsible manner, and then they unfairly become the responsible party. I think that was a reasonable request. If they have trained someone and given them all the appropriate instructions, guidelines and supervision and then something unlawful or irresponsible occurs anyway, they do not want, by virtue of just happening to be the licensee, to be subject to the law. I thought that was a fair thing. The other thing that has changed from our original submission on this matter was the word "neglect", and that was in response to the member for South Perth. It was a late submission; they got back to us only a day or so ago with regard to that particular change.

Mr J.E. McGrath interjected.

Mr P. PAPALIA: On this particular clause? No. I am trying to accommodate and be as helpful as I can. I have said, though, to the different peak bodies and individuals that we have consulted with that they should not assume that this is the last one we do. It is possible to make further amendments, particularly smaller ones that are done in a more rapid fashion. They should not assume that this is their last die-in-the-ditch chance, but they are a bit

gun-shy. Having got so close with the last one, in the last Parliament, they are always trying to refine it as much as possible right up to the last minute, and that is what has happened.

Mrs L.M. HARVEY: I am wondering why "neglect" has been omitted. What was previously there was —

> the safety, health or welfare of persons who resort to the licensed premises is endangered by an act or neglect of the licensee; or

I understand this provision being expanded to include "employee or agent of the licensee" and "a person acting … on behalf of the licensee", but I do not understand why "neglect" would be removed.

Mr P. PAPALIA: No, the amendment we have made removes the word "omission" and reverts to "neglect". That is what I am saying; it was at the recent behest of the Australian Hotels Association on behalf of its members. We changed it to "omission" on its behalf; it sought legal advice and believed that that was not a good outcome. It believed that it was reasonable to suggest that if a licensee had been negligent, they would be culpable or responsible, but "omission" has a different consequence.

Dr M.D. NAHAN: Has the minister sought independent legal advice on this, separate from the advice provided to AHA?

Mr P. PAPALIA: We sought advice from parliamentary counsel as to whether it meets our intent and we are comfortable that it does.

Mrs L.M. HARVEY: Is the minister saying that if an employee or agent acting on behalf or under contract of a licensee could be construed as having been responsible for negligence in their activities, it will be covered by an act or omission? Is that what the minister is saying?

Mr P. PAPALIA: No, we have reverted to the original wording. The amendment subsequent to paragraph (k) remains as we proposed, which is —

> (a) the licensee; or
>
> (b) an employee or agent of the licensee; or
>
> (c) a person acting, or purporting to act, on behalf of the licensee;

What has changed in the amendment is that we have removed the word "omission" and returned the word "neglect". "Neglect" is what was there before, but it did not have all those other subcomponents.

Mr J.E. McGRATH: In what circumstances would this be needed? Would it be if someone slips over because the manager of the pub has left something on the floor that should not have been there, or a crowd controller has assaulted a patron? What are the circumstances that have made the publicans or licensees so concerned that they may be held responsible for something that was done by one of the people under their control?

Mr P. PAPALIA: All that we are doing here is to afford licensees a bit of protection that was not previously available to them. In the past the same obligations were attributed to the licensee with regard to whatever the incident was. The wording for where the responsibility resides was much more simplistic and sheeted home responsibility to the licensee regardless. This will afford licensees a little more protection in the event that someone acting on their behalf acts in a negligent way. At the moment, if anyone on the premises acts in a negligent way, the responsibility resides with the licensee. That is not really fair. I think it was a reasonable proposition for licensees to say, "Well, hang on a minute; if I act in a responsible way and I've given all the appropriate training and supervision and then one of my agents or employees or people acting on my behalf acts in a negligent way, why should I be the sole individual responsible?" Subject to the director of Liquor Licensing taking disciplinary action, that may ultimately put them out of business.

Mr J.E. McGrath: It could be someone who's poured a drink that has some cleaning fluid in it, or something —

Mr P. PAPALIA: All those things, but the member is getting into the weeds at the other end.

Mr J.E. McGrath: No, I'm just saying —

Mr P. PAPALIA: Yes, I agree, it could be all those things, but all we are doing is affording the licensee a little more protection. We are not changing the nature of the incident; we are just changing the nature of the responsibility.

[Quorum formed.]

Amendment put and passed.

Clause, as amended, put and passed.

Clause 46 put and passed.

Clause 47: Section 98AA inserted —

Mrs L.M. HARVEY: Just to confirm, does this clause effectively give small bars the same permitted hours of operation as a hotel licence?

Mr P. PAPALIA: Yes, member.

Mrs L.M. HARVEY: I think that is a very good amendment, and it has my full support.

Clause put and passed.

Clauses 48 to 52 put and passed.

Clause 53: Section 110 amended —

Mr P. PAPALIA: I move —

> Page 36, lines 13 and 14 — To delete "any unconsumed portion of the wine from the licensed premises." and substitute —
>
> > from the licensed premises any opened container of the wine if its contents have been partially consumed.

Dr M.D. NAHAN: I have just a minor question. This is a good amendment. It refers to wine sold to a person for consumption. Could that be considered for any other type of drink?

Mr J.E. McGrath interjected.

Mr P. PAPALIA: The member for South Perth has just nailed it, I think!

No, it is only wine. Through concerns raised over the potential purchase of much more significantly impactful alcohol content drinks, the amendment was confined to a partially consumed bottle of wine served with a meal. That was the intent.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 54 and 55 put and passed.

Clause 56: Section 115AA amended —

Mrs L.M. HARVEY: I have a question about barring notices on behalf of the member for Vasse, who has had to attend another function. What is the expectation of the director, and indeed the government, on how licensees enforce barring notices?

Mr P. PAPALIA: This clause changes nothing about the manner in which barring notices are enforced. In the event that someone is subject to a barring notice and is allowed entry to premises, that is a breach. The intent of clause is to extend the geographical area in which a barring notice can be issued outside the premises. This is at the request of the industry. Licensees can call the police and have a barring notice applied to someone misbehaving inside the venue, but they have found that people playing up in the queue outside the venue before they get in cannot be issued with a notice. This change will enable barring notices to be used in the queue outside the venue. I do not think any change is being made to the way a barring notice is enforced.

Mr J.E. McGRATH: This will be my last question for the day. What is the furthest distance from the licensed venue that a barring notice can be served? Will a distance be set? Someone may take a licensee to court claiming that the legislation does not specify how far away from the venue a notice could be issued.

Mr P. PAPALIA: I am advised that it is the intention that that discretion be available to the police. The intent of this is to accommodate queues of patrons waiting to get into venues. They can be long; they could go down the street. Potentially, the police could say, "You were playing up right at the end of the line, but you still get a barring notice."

Clause put and passed.

Clause 57: Section 115AC amended —

Mr P. PAPALIA: I move —

> Page 38, lines 14 to 16 — To delete the words —
>
> > 115AC(1)(a) after "name" insert:
> >
> > and date of birth
>
> and substitute —
>
> > 115AC(1):

(a) in paragraph (a) after "name" insert:

and date of birth

(b) delete paragraph (c) and insert:

(c) the address of the person;

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 58 to 60 put and passed.

Clause 61: Section 155 amended —

Mrs L.M. HARVEY: I am very supportive of the amendment in this clause. It is something that police were keen to see included in the legislation. This amendment has arisen out of an anomaly in the act under which, when individuals bring alcohol into restricted communities, police would seize the alcohol but were then compelled, because of advice given by the Aboriginal Legal Service to individuals who were carrying alcohol through restricted areas, that police could not permanently confiscate the alcohol. I want to make sure about this wording. It states that the police can seize opened or unopened containers of liquor involved in a contravention, which is terrific, but I want to make sure that the definition and words are robust enough to ensure that police can permanently confiscate alcohol that has been brought into these communities by sly groggers and that this word "seize" will not be open to some kind of legal challenge by individuals who want to get their alcohol back. We want to have that alcohol permanently confiscated, if individuals have seen fit to sly grog into a community, when through a democratic process that community has requested that it be dry, and that alcohol be prohibited. I seek the minister's assurance that the wording of this clause is strong enough and tight enough to enable police to permanently confiscate alcohol and ensure that there cannot be a challenge to that confiscation by any individual, that police can destroy that alcohol and make sure a message gets sent to sly groggers that this is absolutely untenable and will not be tolerated.

Mr P. PAPALIA: I understand that the member feels strongly in support of this amendment to the act. There are two things. The first is a section 64 restriction, and that is where, when the police seize alcohol they cannot destroy it, or it is problematic for them, and often they have to hold it and then return it. Under section 175 they can destroy it. That is a different thing. That is where the minister signs off, at the request of a community, on an alcohol ban, and if the alcohol is seized it can be destroyed. The problem with that at the moment is that sly groggers go to a liquor store somewhere outside the prescribed geographical area of the section 175 ban, and they can drive into the banned area and claim that they were passing through, or that they were not heading to that town, or that the alcohol is for personal consumption or a party, or whatever. This clause will prevent that. Section 155(7)(b)(ii) will be amended to replace "believes" with "suspects" in relation to police powers to seize unopened containers of liquor were a person is likely to cause undue offence, annoyance, disturbance or inconvenience to other persons. It is a lower level of obligation for the police. They do not have to suspect; they only have to believe. That means that if they believe an individual is engaged in carriage of liquor well in excess of the limits imposed under section 109, they can seize it. It empowers them to destroy it. It will also reach beyond the prescribed distance of the dry community. The police could perhaps get intelligence. They may go just outside the town where an individual has gone to buy a carload of alcohol, intercept them, say they believe that this is the purpose of the alcohol, seize it and destroy it.

Clause put and passed.

Clause 62: Section 167 amended —

Mrs L.M. HARVEY: I just want some clarification from the minister; I am not challenging this clause. This looks like another red-tape reduction clause for police. It is basically changing the content of an infringement notice, whereby when an infringement notice for some of these offences is issued by police, it reverses the onus of belief that an individual might like to contest an infringement in the court, and basically gives an on-the-spot infringement should the offender choose to not head to court. Is that what this does?

Mr P. PAPALIA: I am told that it is a technical amendment. I will read from the briefing notes. The objective is to remove the requirement for infringement notice forms to be prescribed in the regulations. The current provisions of section 167 provide that an infringement notice and a withdrawal notice must be in a prescribed form; that is— the form is prescribed in the regulations. The amendment provides that an infringement notice and a withdrawal notice shall be in a form approved by the director. Information informing the person about payment requirements and options will be relocated to a new subsection (2A). This amendment is technical in nature; there will be no material change to the content of the infringement and withdrawal notices.

Clause put and passed.

Clauses 63 and 64 put and passed.

Clause 65: Section 175 amended —

Mrs L.M. HARVEY: I seek some clarification. At line 23 this clause inserts a requirement for risk assessments of operating practices of licensees. What is being proposed? I would not like there to be an additional imposition on licensees, other than what is already in this very comprehensive piece of legislation. I am not sure why this has been inserted. I would like the minister's clarification of it.

Mr P. PAPALIA: I am told that this is a consequence of the 2013 inquiry, which was incorporated in the 2016 draft. As I understand it, the part to which the member referred authorises the shifting of that obligation to the regulations. I am informed that it does not impose any additional burden on licensees; they already conduct the sorts of activities that are required for the risk assessment.

Mrs L.M. HARVEY: I do not know whether some of these requirements were deleted earlier in the bill—I seek the minister's clarification of that. It looks as though regulations will be created that will require risk assessments of operating practices of licensees, around the conduct of juveniles on licensed premises, detailing rules around the training of licensees and employees of licensees, and around the practices of licensees regarding the responsible consumption of liquor, intoxication and noise and other disturbance. What is this? Does this mean that, by regulation, all of a sudden there will be some kind of list? For example, will the department prescribe by way of regulation a list of indicators that an individual is intoxicated? Will it prescribe by way of regulation a list of all the components of training and employment for licensees? That is what this empowers the department to do. I am a little concerned about that, because we know agencies can sometimes get a little bolshie about this. What will be required of licensees under the new requirement for a risk assessment of operating practices of licensees? This could be —

Mr P. Papalia: Unless you are going to talk for some time, I have had the briefing.

Mrs L.M. HARVEY: I was talking while the minister received his advice.

Mr P. PAPALIA: I appreciate that. I am informed that all these obligations are currently imposed on licensees. At the moment, applicants are compelled to provide such information to the director as part of the process. It is part of the director's policy that they have harm-minimisation plans and a policy. It is an intention that once this is placed into the legislation, it will enable the director to enforce compliance, which he or she does now anyway because they do not give licences unless the applicants comply. It will be legislated. They will then develop a code of conduct, which will incorporate all these obligations. Licence bearers will be required to abide by the code of conduct.

Dr M.D. NAHAN: Do you want to say something else?

Mr P. PAPALIA: There is one other thing, which is probably the convincing point. At the moment, applicants have to do all this stuff themselves. A code of conduct will become available to them, with which they can just comply. All the work will have been done for them; they will just have to meet the obligations of the code of conduct.

Dr M.D. NAHAN: Will an applicant have a code of conduct that they can sign off, which will give them a clear pathway to what is required?

Mr P. Papalia: Yes.

Dr M.D. NAHAN: Very good; that has been a major impediment to inexperienced applicants.

Mr P. Papalia: I was not as familiar with this clause because it is not one that we worked up.

Dr M.D. NAHAN: I guess our concern is that the directorate has had policies on all these things for a long time, but articulated with different degrees of clarity. The minister used the word "regulation". As important as it is for the director to have policies—the code of conduct is an excellent idea to clarify those—the government is not going to give the director the requirement and ability to have regulations as a policy. If so, I think the government might have a Henry VIII problem in the upper house.

Mr P. PAPALIA: I am not trying to specify that or articulate the exact mechanism for the development and implementation of the code of conduct. I understand there is a policy at the moment and that licensees need to comply with all these obligations now, but they have to develop all the different components or parts of the obligations themselves. The intent here is to try to make it easier to develop a standing code of conduct with which they must comply; in the event that they comply, it will be easier for them to pass through the process.

Mrs L.M. HARVEY: I flag to the minister that he might have picked one of those difficult fights with our colleagues in the other place who tend not to like matters such as these prescribed by way of regulation; they prefer

to see these issues detailed in legislation. However, he is saying that he believes it will make it easier for licensees. If that is the case and he is prepared to put that on the record, we will accept that. I am curious to know about risk assessment of licensees' operating practices. What is likely to be considered as part of the risk assessment? That could be quite broad. I seek some clarification from the minister on what might be included as a consideration around regulation requiring risk assessment.

Mr P. PAPALIA: With respect to the upper house, all I can say is that this amendment was arrived at as a consequence of the 2013 inquiry under the member for Scarborough's government. There are members in the upper house who were there then in very responsible positions. It was part of the draft legislation in 2016, which did not reach Parliament. I hope there is not too much concern about the nature of it, because it is not one I created. Nevertheless, I am informed that the risk management plan is nothing more than would be required in the current house management plan. I am informed that is the terminology. They already have to comply with provision of a house management plan. It is the same content; it is just that that will be incorporated into this code of conduct, which will facilitate a more efficient process.

Mrs L.M. HARVEY: Where I perceive this could be an improvement for licensees is if, for example, there is a requirement for all these things to be prescribed by regulation, there is an opportunity for Parliament to scrutinise them. One of the big complaints made as part of the review of the act was that the director of Liquor Licensing would make rulings and guidelines and issue directions and there was no scrutiny around them. But as soon as the director had issued a particular direction—I cannot remember the actual name of it—he then was his own regulatory-making mechanism. This will bring back to Parliament those sorts of decisions that were previously made by the director of Liquor Licensing on a website with no scrutiny by Parliament—quasi-regulations that the director has control of. I would be quite supportive of it; it is probably a good move if that is the intention.

Mr P. PAPALIA: That is the intention, member. I am informed that what is done under policy is being moved into legislation here. A code of conduct will be composed, which will be under regulation and subject to scrutiny by Parliament.

Clause put and passed.

Clause 66 put and passed.

Clause 67: Section 178 deleted —

Mrs L.M. HARVEY: This refers to a statutory review of the act, as I understand it. It looks as though the minister is deleting the requirement for a statutory review of the act. Correct me if I am wrong, but I would have thought putting a statutory review clause in legislation is sensible to ensure that the agency will continue to maintain and update legislation and make sure it remains contemporary. I seek clarification if it is the intention to remove that statutory review clause. If that is the case, I flag that it is likely that some statutory review clause of the act will be reinserted by our members in the Legislative Council.

Mr P. PAPALIA: This was just a recommendation because the act was reviewed at that time. The 2013 review was undertaken and we are implementing most of what was recommended, plus many other things. That the review of the act section be removed was a recommendation in the 2013 review and was in the draft legislation in 2016. It is acknowledgement that there was a review.

Mrs L.M. HARVEY: We will have to agree to disagree on this one because although there has been a review of the act, that is great, but it is quite sensible to ensure that there is a statutory review clause. I flag with the minister that this is something the Legislative Council is likely to seek to amend to ensure the department is required to keep a constant review of this sort of legislation and to ensure it is contemporary, particularly in this modern environment when there are disrupters online, acts being created for the delivery of alcohol—a range of factors. A review section of the act will cause the agency to try to stay abreast of trends in this industry and make sure the legislation remains contemporary. I do not intend to seek to amend it at this point in time, but I flag that it is likely an amendment will be put through in the other place.

Mr P. PAPALIA: When we read the section that was there prior to this time, we can see that it did not compel a review at any specific time. It said "as soon as is practicable after the expiration of five years". That aside, I think the member is making a reasonable suggestion. We might propose that a review clause be inserted in the upper house when it gets there.

Dr M.D. NAHAN: I thank the minister. This is a moving feast. We would welcome an amendment in the other house when it gets there.

Clause put and passed.

Clause 68 put and passed.

Title put and passed.