

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

(Introduced by Hon. Norm Kelly)

**LIQUOR LICENSING
AMENDMENT BILL 1998**

A BILL FOR

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

The Parliament of Western Australia enacts as follows:

Short title

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

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Commencement

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

Principal Act

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

[* Act No. 54 of 1988.

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

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Division 1A inserted in Part 3

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

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

Application of this Division

37B. (1) This Division applies —

(a) in relation to licences of a particular class; but

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(b) only if there are 20 or more licences of that class in force —

(i) at the time when an application to which this Division applies is made; or

(ii) at any other time that is relevant for the purposes of this Division.

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

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

Definition of “prohibited concentration”

10 **37C.** (1) For the purposes of this Division there is a prohibited concentration of the holding of licences of a particular class if —

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

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

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

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

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- (c) they come within any additional definition of what constitutes a group that is prescribed for the purposes of this Division.

Restriction on grant or transfer

5 **37D.** (1) An application for —

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

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

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

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

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

Existing situations to be remedied within 5 years

37E. If —

- 20 (a) at the commencement of the *Liquor Licensing Amendment Act 1998* there is a prohibited concentration of the holding of licences by a licensee or group of licensees; and
- 25 (b) after the 5th anniversary of that commencement there is still a prohibited concentration of the

holding of licences by that licensee or group of licensees,

5 the licensee or each member of the group, as the case may be, commits an offence and is liable to a fine of \$20 000 and a daily penalty of \$2000.

Necessary information to be provided by applicant

37F. (1) An applicant for —

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

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

(2) In subsection (1) —

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

Regulations

20 **37G.** Without limiting section 175, regulations may be made under that section —

- (a) prescribing any definition for the purposes of section 37C (2) (c);
- (b) prohibiting acts and transactions by which the intention of this Division may be evaded; and

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- (c) prescribing a penalty not exceeding \$5 000 and a daily penalty of \$250 for an offence against the regulations.

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5 Section 82 amended

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

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

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