

Liquor Control (Further Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 25 October 1995

(Brought in by Mr Heffernan and Mr Coleman)

A BILL

to make further amendments to the **Liquor Control Act 1987**
and for other purposes.

Liquor Control (Further Amendment) Act 1995

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. Purposes

The purpose of this Act is to amend the **Liquor Control Act 1987** to—

- (a) make further provision for the control of the drinking of liquor by persons under the age of 18 years;
- (b) provide for a system of proceeding against persons who have committed offences against the Act by way of infringement notices;

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

(c) make provision for other minor matters.

2. Commencement

- (1) Section 1 and this section, come into operation on the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day or days to be proclaimed.
- (3) If a provision referred to in sub-section (2) does not come into operation within the period of 6 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period.

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No. 97/1987.
Reprinted to
No. 83/1994.

3. Principal Act

In this Act the **Liquor Control Act 1987** is called the Principal Act.

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4. Insertion of new definitions

In section 3 of the Principal Act **insert** the following definitions—

“**driver licence**” means a driver licence issued under the **Road Safety Act 1986**;

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“**evidence of age document**” means a document that is—

(a) a proof of age card or a card which is the equivalent of a proof of age card issued in another State or a Territory; or

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(b) a document issued—

(i) by a person; or

(ii) on behalf of a government department or agency—

approved by the Minister indicating that the person to whom the document is issued is of or over the age of 18 years; or

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(c) a driver licence or a licence which is the equivalent of a driver licence issued in another State or a Territory; or

(d) an Australian or foreign passport—
which—

(e) bears a photograph of the person to whom it is issued; and

(f) enables the age of the person to whom it is issued to be determined, whether by reference to the person's date of birth or otherwise;

“**proof of age card**” means a document issued by the Chief Executive Officer under section 151A;’.

**PART 2—PROVISIONS RELATED TO UNDER AGE
DRINKING**

5. Defence to an offence under section 127

In section 127 of the Principal Act, for sub-section (6) **substitute**—

“(6) It is a defence to a charge brought under this section against a person to prove that, at the time of the offence the defendant had sighted an evidence of age document of the person whose age is material to the offence, indicating that that person is of or over the age of 18 years.”.

6. Defence to an offence under section 128

In section 128 of the Principal Act, after sub-section (4) **insert**—

“(5) It is a defence to a charge brought under this section against a person to prove that, at the time of the offence the defendant had sighted an evidence of age document of the person whose age is material to the

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offence, indicating that that person is of or over the age of 18 years.”.

7. False representation of age

In section 131 of the Principal Act, after sub-section (2) **insert—**

“(3) A person must not falsely represent himself or herself to be of or over the age of 18 years for the purpose of avoiding being found to be in contravention of sub-section (1).

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Penalty: 5 penalty units.”.

8. Insertion of new section 131A

After section 131 of the Principal Act **insert—**

“131A. Wrongful dealing in evidence of age document

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(1) A person must not give an evidence of age document which has been issued to that person to another person, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

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(a) as an evidence of age document for the purposes of this Act by a person other than the person to whom it was issued; or

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(b) to obtain a proof of age card for a person other than the person to whom the document was issued.

Penalty: 20 penalty units.

(2) A person must not wilfully or negligently deface or interfere with an evidence of age document.

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Penalty: 20 penalty units.

(3) A person must not—

(a) make a false document that could reasonably be taken to be an evidence of age document; or

(b) give such a false document to another person—

knowing the document to be false and with the intent that the document be used as an evidence of age document.

Penalty: 20 penalty units.”.

9. *Insertion of new section 151A*

After section 151 of the Principal Act **insert—**

“151A. *Issue of proof of age cards*

(1) An application for a document issued under sub-section (2) must be—

(a) made to the Chief Executive Officer; and

(b) in a form approved by the Chief Executive Officer; and

(c) accompanied by the information and material, if any, required by the Chief Executive Officer.

(2) On receiving an application, the Chief Executive Officer may issue a document indicating that a person is of or over the age of 18 years to the person who made the application if the Chief Executive Officer is satisfied that the person is of or over the age of 18 years.”.

10. *Insertion of new section 152A*

After section 152 of the Principal Act **insert—**

“152A. Seizure of evidence of age document

- (1) A document (except a driver licence), which is represented to be an evidence of age document, may be seized by the person to whom it has been produced if that person is—
 - (a) a member of the police force; or
 - (b) the licensee or permittee or an employee of the licensee or permittee of the licensed premises in or in the vicinity of which the document has been produced. 10
- (2) A person must not seize a document under sub-section (1) unless that person reasonably believes that— 15
 - (a) the person who produced the document is not the person to whom the document was issued; or
 - (b) the document contains false or misleading information about the name or age of the person who produced the document; or 20
 - (c) the document has been forged or fraudulently altered; or
 - (d) the document is being used in contravention of a provision of this Act. 25
- (3) If a document has been seized under sub-section (1) by a person other than a member of the police force, that person must give the document to a member of the police force. 30
- (4) A member of the police force who has seized a document under sub-section (1) or to whom a document has been given under sub-section (3) must return the document within 28 days to the person who produced it unless— 35

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- (a) the person who produced the document is not the person to whom the document was issued; or
- (b) the document contains false or misleading information about the name or age of the person who produced the document; or
- 10 (c) the document has been forged or fraudulently altered; or
- (d) the document is being used in contravention of a provision of this Act.”.

11. Insertion of new section 175C

After section 175B of the Principal Act **insert**—

15 **“175C. Transitional provision-proof of age card**

- 20 (1) A document issued by the Chief Executive Officer on or after 1 July 1993 which indicates that the person to whom the document was issued was, at the time of issue, of or over the age of 18 years is deemed to be and to always have been as valid and effective as it would have been if there had been power to issue the document at the time it was issued and the Chief Executive Officer is deemed to have and to always have had the power to issue the document
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- (2) A document to which sub-section (1) applies is deemed to have effect for the purposes of this Act as if it were an evidence of age document.”.
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PART 3—INFRINGEMENT NOTICES

12. Effect of giving of infringement notice on cancellation and suspension

- 35 (1) In section 101 of the Principal Act, after sub-section (4) **insert**—

“(4A) In considering whether or not a licensee or permittee is a suitable person to hold a licence or permit, the Commission may have regard to the fact that the licensee or permittee has paid a penalty for an offence for which an infringement notice has been issued under this Act.”.

(2) In section 101 (5) of the Principal Act, after paragraph (da) insert—

“(db) has paid a penalty for an offence for which an infringement notice under this Act has been issued; or”.

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13. Insertion of new Division 4 of Part 6

In Part 6 of the Principal Act, after Division 3 insert—

1.

“Division 4—Infringement Notices

145D. Power to serve a notice

(1) If a member of the police force has reason to believe that a person has committed an offence against section 101 (7), 110, 110A, 122, 125, 127 (1), (2), (3) or (4), 128 (1), 129, 130, 131 (1) or (3), 131A (1), (2) or (3), 134 (a), (b) or (c) 136 (1), 137 or 152 (6) of this Act, he or she may serve an infringement notice on that person.

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(2) An infringement notice may be served—

(a) by personally serving the notice on the alleged offender; or

(b) by sending the notice by post addressed to him or her at his or her last known place of residence or business.

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145E. *Form of notice*

An infringement notice must—

- (a) be in the prescribed form; and
- (b) state the penalty fixed under section 145G for the offence; and
- (c) state that if the amount of the penalty is tendered at the place referred to in the notice the matter will not be brought before the Court unless the notice is withdrawn before the end of the period specified in the notice as the time for payment of the penalty.

145F. *Withdrawal of notice*

- (1) The member of the police force may withdraw an infringement notice at any time within 28 days after the notice is served by serving a withdrawal notice on the alleged offender.
- (2) An infringement notice may be withdrawn even if the appropriate penalty has been paid.
- (3) Once the notice of withdrawal has been served the amount of any penalty paid on an infringement notice before it is withdrawn must be refunded.

145G. *Penalties to be paid for offences under infringement notices*

The penalty to be paid for an offence for which an infringement notice has been issued is one-tenth of the maximum penalty fixed for that offence by the Act.

145H. *Payment of penalty*

- (1) If the person pays the penalty on the infringement notice within the time

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shown on the notice or, if the member of the police force allows, at any time before the service of the summons in respect of the offence—

(a) further proceedings may not be taken against that person in respect of the offence; and

(b) no conviction is to be recorded against the person for the offence.

- (2) A penalty paid under this section must be applied as if the offender had been convicted of the offence in the Magistrates' Court on a charge filed by the member of the police force who served the infringement notice. 10
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145I. Notice not to prejudice further proceedings

(1) If—

(a) a person served with an infringement notice has not paid the penalty within the time specified in the infringement notice; or 2

(b) an infringement notice is withdrawn—

proceedings may still be taken or continued for the offence. 2

- (2) If proceedings have been taken or continued for an alleged offence because the person has not paid the penalty specified in the infringement notice and a conviction is imposed by the court, the conviction must not be taken to be a conviction for any purpose except in relation to— 3

(a) the making of the conviction itself; and 3

- (b) subsequent proceedings which may be taken in respect of the conviction itself, including proceedings by way of appeal.”.

5 **PART 4—MISCELLANEOUS AMENDMENTS**

14. *Functions of Chief Executive Officer*

In section 43 (2) of the Principal Act, after paragraph (d) **insert**—

“; and

- 10 (e) shall conduct, or enter into agreements for the conduct of, courses about the responsible sale, disposal and consumption of liquor.”.

15. *Licensing of cinemas*

15 In section 60 (1) (a) of the Principal Act, for “as a cinema or drive-in cinema” **substitute** “as a drive-in cinema”.

16. *Disqualification*

20 In section 103 (1) of the Principal Act, after “(if it is a club)” **insert** “or any person who, whether directly or indirectly, is concerned in or takes part in the management of licensed premises”.

17. *Exceptions to under age persons being on licensed premises*

- 25 (1) In section 128 (2) of the Principal Act, for paragraph (b) **substitute**—

30 “(b) to the presence on licensed premises or authorised premises of a person who is engaged in a training program in hospitality or in training for the purposes of employment or work experience, if the person is so present in accordance with any conditions to which that program or training is subject.”.

(2) In section 128 of the Principal Act, sub-section (3) is **repealed**.

18. *Exceptions to prohibition on under age persons selling liquor*

(1) In section 130 of the Principal Act, before “A licensee” **insert** “(1)”.

(2) At the end of section 130 of the Principal Act **insert**—

“(2) Sub-section (1) does not apply to the sale or disposal of liquor on a licensed or authorised premises by a person under the age of 18 years if the person is engaged in a training program approved by the Minister and is selling or disposing of the liquor in accordance with any conditions to which the Minister has determined that the training program is subject.”.

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19. *Exceptions to offences by under age persons*

In section 131 (1) (c) of the Principal Act, after sub-paragraph (v) **insert**—

“; or

(vi) unless the person is engaged in a training program in hospitality or in training for the purposes of employment or work experience and the person is so present in accordance with any conditions to which that program or training is subject.”.

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20. *Amendment of regulation making powers*

In section 160 of the Principal Act, after sub-section (1) **insert**—

“(1A) The Governor in Council may make regulations for or with respect to encouraging responsible practices in the service, supply and promotion of liquor.”.

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21. *Commission to continue in existence*

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- (1) The Commission continues to exist.
 - (2) Sub-section (1) has effect despite the fact that the Public Bodies Review Committee in its final report with respect to the Liquor Licensing Commission (within the meaning of the Principal Act) laid before the Legislative Assembly on 5 September 1995 and the Legislative Council on 3 October 1995, recommended that the Commission should cease to exist.
 - (3) Section 4P (4) of the **Parliamentary Committees Act 1968** does not apply to that report.

