

LIQUOR CONTROL AMENDMENT (BANNED DRINKERS REGISTER) BILL 2023

Introduction and First Reading

Bill introduced, on motion by **Mr R.R. Whitby (Minister for Racing and Gaming)**, and read a first time.

Explanatory memorandum presented by the minister.

Second Reading

MR R.R. WHITBY (Baldivis — Minister for Racing and Gaming) [10.14 am]: I move —

That the bill be now read a second time.

The Liquor Control Amendment (Banned Drinkers Register) Bill 2023 will introduce amendments to the Liquor Control Act 1988 to establish a legislative framework in relation to the operation of the banned drinkers register in Western Australia.

In January 2021, the state government, through the Department of Local Government, Sports and Cultural Industries, commenced a two-year BDR trial in the Pilbara. Subsequent trials commenced in the Kimberley in July 2021 and the goldfields in March 2022. A further BDR trial is scheduled to commence in Carnarvon and Gascoyne Junction in May 2023.

A BDR is a more targeted approach to harm minimisation and is aimed at restricting access to liquor in cases when individual consumption levels are causing harm. Since their inception, the trials have been run as administrative programs, and liquor licensees in the relevant regions participate on a voluntary basis and have been supported by industry.

As part of the existing BDR trials, individuals are placed on the BDR if they are subject to a barring notice or prohibition order or they voluntarily elect to be placed on the BDR. In areas where restrictions on daily purchases of alcohol are in place, the BDR is supported by a takeaway alcohol management system that records the amount and type of packaged liquor purchased by an individual in a 24-hour period and alerts sales staff when daily purchase limits are exceeded.

It is a priority of the McGowan government to reduce harm caused by the consumption of liquor, and the implementation of the BDR trials is consistent with the objects of the Liquor Control Act 1988 relating to regulating the sale, supply and consumption of liquor and minimising harm or ill-health caused to people due to the use of liquor. In this regard, in an effort to improve harm minimisation outcomes, in early 2022 a BDR working group was established as an advisory body to consult on the operation and improvements to the BDR. The BDR working group comprises state government agencies that have a role in supporting the minimisation of alcohol-related harm and includes the Department of Local Government, Sport and Cultural Industries as well as the Departments of the Premier and Cabinet, Communities, Justice and Health; the Western Australia Police Force; the WA Country Health Service; and the Mental Health Commission.

Consultation on options for ensuring the effectiveness of the BDR program was undertaken in late 2022 with key stakeholders, including community organisations, government agencies, industry peak bodies, licensees, liquor accords, local governments and members of the public. Responses showed that stakeholders were broadly supportive of the suggested changes to strengthen the BDR. In addition, an interim evaluation of the Pilbara BDR trial undertaken by the University of Western Australia identified a range of opportunities to enhance the program's effectiveness as a harm minimisation tool, including a need to enhance and expand registration pathways to the BDR.

After considering stakeholder feedback and the findings of the interim evaluation, it is believed the reforms contained in this bill will further support the operation of the BDR and improve harm minimisation outcomes. The bill provides for the establishment of the BDR as a register of people who are prohibited from purchasing packaged liquor and contains provisions to facilitate the issue of a banned drinker order that will prohibit an individual from purchasing, possessing or consuming packaged liquor for three, six or 12 months. The bill will also provide for additional pathways to include individuals on the BDR and expand the range of people who will be able to seek to place someone on the BDR. In this regard, in addition to the current arrangements, which include individuals who are subject to barring notices and prohibition orders, individuals who are subject to a banned drinker order made by WA police or the director of Liquor Licensing will be registered on the BDR. WA police will be able to make a banned drinker order for an individual for three, six or 12 months, depending on the circumstances and previous orders that have been made.

The criteria for the making of a banned drinker order by the WA police will include alcohol-related offending or offending that occurs while an individual is affected by liquor, including family violence that results in the issue of a restraining order and driving under the influence that results in a licence disqualification. In addition, an individual may be issued with a banned drinker order if they are taken into alcohol-related protective custody on more than one occasion or if they supply liquor to a person who they know is on the BDR. It is important to note

that a banned drinker order made by a police officer must be authorised by a senior officer at the rank of sergeant or above. The director of Liquor Licensing will be able to make a banned drinker order based on an application by a medical practitioner, social worker or other prescribed person. The criteria for the making of a banned drinker order by the director of Liquor Licensing will include whether the person is misusing or has misused liquor and that misuse is a serious risk to the health, safety or wellbeing of the person or another person. The director must also be satisfied that it is in the public interest to make the order. To support current arrangements, the bill also provides a formal mechanism for individuals to seek a self-imposed banned drinker order, which will register them on the banned drinkers register. Banned drinkers will have several avenues to appeal the issue of a banned drinker order. In the first instance, a banned drinker will be able to apply to the issuer of the order—that is, the Commissioner of Police or the director of Liquor Licensing. The second avenue of appeal will be to seek a review by the Liquor Commission.

The bill provides that the director of Liquor Licensing must keep a register of banned drinkers and establish an identification system for use by licensees for checking whether an individual is a banned drinker. To increase the likelihood of banned drinkers being identified, the bill includes a list of the types of identification that can be accepted for scanning at licensed premises, which includes drivers' licences, passports, photo cards or other forms of identification approved by the director of Liquor Licensing. Importantly, to support the effectiveness of the BDR trials, the bill provides that participation in the BDR trials will be mandatory by requiring that licensees and staff of packaged-liquor outlets in prescribed banned drinker areas must not sell packaged liquor unless the ID system has been used and the individual is not identified as a banned drinker.

An offence with a penalty of up to \$10 000 will apply to a person who knowingly supplies packaged liquor to a banned drinker in a banned drinker area. This will apply to licensees and staff of licensed premises in a banned drinker area as well as those who sell liquor online for delivery to a person located in a prescribed banned drinker area. The offence will also apply to any other person who knowingly supplies packaged liquor to a banned drinker—known as secondary supply—which is intended to address the issue of family and friends being coerced into buying liquor for a banned drinker. In addition to the monetary penalty, a person who supplies liquor in this manner could be issued with a banned drinker order. Although there is no offence for a banned drinker purchasing or attempting to purchase packaged liquor, WA police will also be authorised to seize and dispose of packaged liquor in the possession of a banned drinker.

The amendments contained in the bill also provide for a head of power to allow banned drinker areas to be prescribed in the regulations after the Minister for Racing and Gaming has consulted with the Commissioner of Police, the relevant local governments and any other person the minister considers it appropriate to consult, and is satisfied that the proposed regulations are in the public interest. It is expected the existing trial areas of the Pilbara, Kimberley, Goldfields, Carnarvon and Gascoyne Junction will be prescribed in the first instance.

In an effort to ensure those individuals who are experiencing alcohol-related harm are aware of support and help services available to assist them, the bill will amend the privacy provisions in the act to allow the Department of Local Government, Sport and Cultural Industries to provide information about those services to people on the BDR.

Finally, as the amendments contained in the bill will support and facilitate the various BDR trials that are currently underway, the provisions relating to the legislative framework will have a sunset period of two years after the operating provisions are proclaimed. In this regard, the state government will continue to monitor and review the effectiveness and outcomes of the trials, and make a decision prior to the expiration of the sunset clause on whether to continue with the trials and retain the relevant legislative framework.

Alcohol-related harm is a longstanding and complex issue for which there is no one solution. The BDR trials are one of several measures in place in an effort to tackle alcohol misuse and protect Western Australians. The reforms contained in this bill are an important step in supporting the operation of the BDR to improve its effectiveness and harm minimisation outcomes for those most at risk. In addition to this bill, the McGowan government is currently reviewing WA's liquor laws to introduce a range of reforms to reduce alcohol-related harm in the community.

I commend the bill to the house.

Debate adjourned, on motion by **Mr P.J. Rundle**.