

LIQUOR CONTROL AMENDMENT (BANNED DRINKERS REGISTER) BILL 2023

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 16: Section 155 amended —

Debate was interrupted after the clause had been partly considered.

Mr P.J. RUNDLE: I seem to recall that just before we stopped I had asked whether the minister could give me a bit of an explanation of proposed section 155(8A)(b), which is about an opened or unopened container of liquor in a person's possession. Could the minister provide a little more explanation of that?

Mr R.R. WHITBY: Proposed paragraph (b) relates to someone on a banned drinkers register being found in possession of alcohol, whether it is opened or not. The police will have the power to seize and destroy that alcohol.

Mr P.J. RUNDLE: Is there any way that a transport operator—someone who brings drinks into a venue or the like—would be caught up in any way, shape or form by proposed subsection (8A)? Can the minister foresee that happening?

Mr R.R. WHITBY: No.

Clause put and passed.

Clause 17: Section 175 amended —

Mr P.J. RUNDLE: Proposed section 175(1G) states —

The Governor, on the recommendation of the Minister, may make regulations prescribing an area of the State ...

How will the minister, or someone else, prescribe the areas that will be covered under the banned drinkers register?

Mr R.R. WHITBY: Yes. It is a decision of the minister, but part of that process requires consultation with the Commissioner of Police and other relevant stakeholders, which would include local government and local community groups. Often there is a call from the community for the introduction of the banned drinkers register. That was the case in Carnarvon a few months ago, which we responded to. Any decision would be made collaboratively in consultation with certain people, as I have outlined, including the Commissioner of Police, local government, local councils and anyone else thought to be appropriate to consult with.

Mr P.J. RUNDLE: What about the liquor representative groups such as the Liquor Stores Association of WA and the Australian Hoteliers Association et cetera? Would they be consulted as well?

Mr R.R. WHITBY: They have been part of the consultation in the past when BDRs have been introduced and they will continue to be.

Mr P.J. RUNDLE: The minister is saying, "Yes, they have", but he obviously has not prescribed them. Is he saying that if the minister considers it appropriate to consult with another person, that they might be part of that group?

Mr R.R. WHITBY: As I explained earlier, it would be up to the minister of the day to decide who was appropriate to consult. I think a minister doing a good job in consultation would ensure that a wide range of people are consulted. We have always consulted peak groups and industry bodies and that will continue to be the case. I hope it would continue to be the case with other ministers, but, as I said, it is open-ended and wideranging and there are other groups that could be contacted for their views.

Mr P.J. RUNDLE: Would the minister take profit bodies and not-for-profit bodies into account when consulting in relation to this?

Mr R.R. WHITBY: Yes.

Mr P.J. RUNDLE: Could the minister outline the process to lift a banned drinkers register region?

Mr R.R. WHITBY: It could be done by revoking or amending the regulations as required.

Mr P.J. RUNDLE: I want to get something clear in my mind; that is, I seem to recall in budget estimates that we had a response that I thought said different areas were being trialled. At different times, different areas have come on. I thought at the time that the minister was implying that this particular legislation would also stagger it, if you like. Can I confirm that the arrangement is that when the legislation comes in, every region—the Kimberley, goldfields, Pilbara and the Carnarvon–Gascoyne Junction—will all be for a set period?

Mr R.R. WHITBY: Absolutely. I think we covered that issue last week in consideration in detail. Every BDR area in the state will start under the new provisions once the legislation is enacted.

Mr P.J. RUNDLE: On the determination of a banned drinkers register region, or the lifting of a banned drinkers register region, what will be the process to let the public know, “Okay, in three months’ time we are looking to lift the register or lift the region”?

Mr R.R. WHITBY: There would be consultation with police and local government and others deemed appropriate to speak to by the minister of the day. When an area is removed from the BDR or amended in some way, there would also be consultation with police and local government and anyone else the minister deems appropriate. I am sure it would involve licensees and industry groups.

Mr P.J. RUNDLE: Would the minister put the same weighting on police as compared with a wraparound service or not-for-profit group? How would the minister balance that?

Mr R.R. WHITBY: This legislation is about harm minimisation and that would be the lens we would use in giving weight to various organisations. We would not ascribe a proportion of influence to anyone; we would look at all the responses and all the feedback, and make a considered judgement about an area and whether it needed to continue in terms of alcohol harm minimisation or whether we are at a stage at which it could be lifted.

Mr P.J. RUNDLE: The first part of my question is about withdrawing or altering a region is. What does the minister predict will be the number of people on the banned drinkers register, and what would the minister consider to be a successful number to look at withdrawing the register some time down the track?

Mr R.R. WHITBY: I am not going to ascribe any number or a specific target. This is about harm minimisation and the desire of a community to live in a peaceful community in which the impact of alcohol is reduced, particularly in areas in which we have seen issues reach crisis level around alcohol abuse. I assume for the system to operate, there needs to be support in any community we go into. It needs to have engagement and buy-in and people need to want to be and be part of the process. That has been the case in all regions. We have seen regions put up their hands and say, “Please consider us. We want this here.” I am not going to set a number or an uptake. I believe that common sense tells us, with the extra pathways and orders having a lower hurdle to get people onto the list, we are going to see an increase in the number of people on the BDR. I think we will see an increase in numbers on the BDR but I am not going to say that it needs to achieve some level to stay active in an area. I think that if it is shown to have a positive outcome for the community, there would be support within government and the community to see it continue.

Mr P.J. RUNDLE: I was unclear as I could have sworn on the *Hansard* from estimates that we had a staggered arrangement as per the advice of Ms Shelton at the time. Could the minister clarify that for the record?

Mr R.R. WHITBY: The only staggering has been with the implementation of the trials. We had the Kimberley, Pilbara, the goldfields, then Carnarvon–Gascoyne Junction. That was the staggering but I think we have been very clear, or we certainly will be here and I think we have been, that the implementation of the new regulations will apply equally at the same time once the law is enacted.

Mr P.J. RUNDLE: As we know, the trial is happening and most licensees are engaged in it. People in the community are generally aware of it. For argument’s sake, for community members in Broome, could the minister foresee that if we had a good result, in two years if numbers are reasonable, potentially could the community look forward to this arrangement being lifted? Will each region be treated on its merits rather than the group of four regions we are dealing with now?

Mr R.R. WHITBY: There will be evaluations of all the areas that have a banned drinkers register. The desire is to minimise harm caused through alcohol abuse and the subsequent impact that it has on the community. The intent is to work with communities to have safer communities. If BDRs are delivering that outcome, I would see no reason to change. I think we will find an acceptance where the trials have been. There will be the initial time when a person leaves their driver’s licence or some form of ID at home or in the car. They will get used to it. It is like the implementation of shopping bags. It is something people have to get used to and, once they are used to it, they accept it. Once people see the positive impact it has, the new arrangements we are discussing today will have even more of a positive impact on communities and I think it will be supported. I think people will want to see it remain in place.

Mr P.J. RUNDLE: Is the minister implying that this could go on for an indefinite period of time so those communities will not have an end in sight, if I could say it that way, and that in two years, Broome may come off the BDR register? Is the minister saying they will get used to it, it will be fine, and it will continue indefinitely?

Mr R.R. WHITBY: We are saying that there will be an evaluation. There is a sunset clause. We will look at how effective it has been. It is also about doing it in consultation with communities and what they want. I am very mindful that that is how this began. That is how the trials have been rolled out and why we are discussing this legislation today—because people in those communities asked for a more effective BDR. We will evaluate it and listen to people in the community and we will make the right judgement that protects people from alcohol harm.

Clause put and passed.

Clauses 18 to 34 put and passed.

Title put and passed.

[Leave granted to proceed forthwith to third reading.]

Third Reading

MR R.R. WHITBY (Baldivis — Minister for Racing and Gaming) [3.24 pm]: I move —

That the bill be now read a third time.

MR P.J. RUNDLE (Roe — Deputy Leader of the Opposition) [3.24 pm]: I will be very brief. Firstly, I want to thank the advisers from the minister's office. Obviously we have seen quite a bit of each other in the last couple of weeks with the budget estimates and the like. I thank them for their work and for drafting the bill, which was fairly comprehensive. As the minister knows, I still have a few question marks over various elements to do with online sales and so forth, but I want to reiterate a couple of points from my contribution to the second reading.

As an opposition, we support the banned drinkers register. I do not think there is any need for me to read out my press release from earlier in the year but I think it is important to recognise that the government, obviously, and the opposition support the banned drinkers register. It is good that the minister made it very clear that this is all about community consultation. It is about working with licensees. It is about working with the community, local governments, police and so forth. From the opposition's perspective, there are no two ways about it; wraparound services—supporting services—are very important and complement this legislation. That is probably the key element for the opposition. We support the legislation but we also support appropriate wraparound services to go with it. As I said in my contribution to the second reading, in my response to the member for Cockburn who was trying to somehow imply that we did not support it or some other such thing, I pointed out that they are incumbent on members of the Labor Party—members of the government—in this place. When the member for Collie–Preston started talking about education of children and how important it is, I could not agree with her more. You get only one opportunity to educate your child. It is so important for all of us here to make sure that vulnerable children in those communities have something to eat for breakfast, have something for lunch, and attend school. In a lot of ways, their families do not always help them out in that respect. A big part of that, as I said in my contribution to the second reading, is the cashless welfare card. Somehow, the federal government that has just come into place decided that it impacted on civil liberties and all the rest. It has taken away the opportunity for those children to have a meal on the table—to have breakfast—before they go to school. I ask every one of the members opposite to have a think about that and think about lobbying their federal colleagues because they are on the wrong side of history. They are on the wrong page. They need to look after those vulnerable kids in these families. I want to reiterate that point. I thank the minister. As I said, we have certainly been through a mixture of issues here with budget estimates and this bill. The opposition supports the banned drinkers register.

MR S.A. MILLMAN (Mount Lawley — Parliamentary Secretary) [3.28 pm]: I rise to make a brief contribution in the third reading debate. I thank the member for Roe for his participation in the consideration in detail stage. I am a bit disappointed about his casting aspersions on the motivation of the federal government about the cashless welfare card. One of the things I have noticed about opposition members is that they are capable of being persuaded —

Point of Order

Mr R.S. LOVE: My understanding is that contribution to the third reading debate is to discuss what we have heard in consideration in detail, not to launch into some far-reaching discussion around various party policies.

The DEPUTY SPEAKER: Thank you, member. I will not be upholding that point of order. The member for Mount Lawley was just recapping some of the previous contributions in the third reading as well.

Debate Resumed

Mr S.A. MILLMAN: I was only responding to the gratuitous comments that had been made by the member for Roe, who, if the member for Moore had allowed me to finish my point, represented the opposition's position of once again supporting the government's appropriate legislation.

[Quorum formed.]

Mr S.A. MILLMAN: One of the issues that became apparent to me whilst I sat in the chamber and listened to consideration in detail was the outstanding work that had been done by the representatives of the department in providing advice to the minister. It speaks to the comprehensive and multifaceted approach that this government takes. Although, on the face of it, this legislation deals specifically with the banned drinkers register, when one has regard to the broader health circumstances, they can see that in fact this is a government that is committed to positive health outcomes. As I said in my contribution to the second reading debate, tackling issues related to alcohol consumption in the community is a health priority and something that I have been fortunate enough in my role as parliamentary secretary to have spent time working on.

One of the features of the previous McGowan Labor government and of the new Cook Labor government is that we recognise that we cannot compartmentalise these issues. These are complex and multifaceted issues that stretch across portfolios and departments. One of the great attributes of the then McGowan Labor government and of the now Cook Labor government is that we see sitting side by side the minister responsible for this bill with the Minister for Health. They are working in concert to make sure that the most appropriate outcomes are delivered for the community of Western Australia. This is what good government looks like. It consists of identifying issues that the community faces and considering what policy and legislative mechanisms need to be put in place to address those challenges, whether that be in juvenile justice, as we heard during question time, homelessness and housing, or in education or health, as the current issue concerns, this government works across portfolios collaboratively and constructively.

One of the recent things I noticed and appreciated is that when the opposition has arrived at the realisation that the legislation we are putting forward is worthwhile, it has supported it. There is no more gratifying sense in politics than seeing your own world view on the appropriate response to difficult political and policy problems being supported and endorsed by the opposition. One of the concerns that I have with the opposition is that it is difficult to know from day to day where it stands. It is good to see that it supports this legislation and that the minister has the support of the entire chamber in the passage of this legislation.

I conclude by commending the advisers who put so much work into this legislation, and also the minister. I reiterate the comment I made in my contribution to the second reading that this legislation will not be the last piece of drug and alcohol reform that this government undertakes. It is an area that is constantly evolving and we are constantly responding to the challenges presented. The community can place its trust in this government and know that whether it be the former McGowan Labor or the current Cook Labor government, mature and responsible custodians will figure out the appropriate legislative response to deal with issues and challenges that we face, and, over time, eventually, the opposition will realise that we are right and will endorse the legislative options that we put on the table, as it has done today. I thank it for that, and I congratulate the minister on the legislation.

MR R.R. WHITBY (Baldivis — Minister for Racing and Gaming) [3.35 pm] — in reply: I thank the member for Mount Lawley and also say that we all in this chamber should be very proud of the Liquor Control Amendment (Banned Drinkers Register) Bill 2023. This is a unique and ambitious way of dealing with a very serious and complex problem. As the member for Mount Lawley pointed out, this is not a cure-all; it is but a tool in the tool rack on a very complex issue that deals with the individual in a very direct way. I have been in communities right around this state. The moment the register was introduced in the Kimberley, for example, the local traditional owners and often the women were very grateful and expressed support and gratitude for the immediate change it had on behaviour. People did not even have to be on the banned drinkers register. The fact that they had to produce identity, whether on the register or not, seemed to have a modifying impact on all sorts of behaviour near liquor stores and in the community generally.

I thank all members who made a contribution. While they are still here, I specifically thank the team of advisers who have been very great sources of information and detail for me in order to respond to the questions from the member for Roe. I acknowledge the executive director of the Department of Local Government, Sport and Cultural Industries, Jennifer Shelton; the acting general manager of strategic regulation, Philip Hine; and principal policy officer, Donna Kennedy. I also acknowledge my senior policy adviser Tony Monaghan. I also thank every member who made a contribution, including the member for Roe for his detailed inquiry into various aspects of the legislation. I specifically also recognise the former ministers who have been instrumental. This has not been a recent journey; it occurred over four ministers, myself twice, but starting with the member for Warnbro as minister, who was instrumental, and the member for Armadale, who continued the passage of these changes and the trials that we have had throughout the state.

In closing debate, I acknowledge the opposition's support of the legislation. As I said before, we all know that this is not a magic wand; it is but part of our approach as a government. We have other wraparound community services, health services and local community services, whether it is through sport, and getting grants out so that kids can have a positive activity after school in the evening in the community; Target 120; the family support units that have been rolled out in places like Carnarvon and elsewhere; the investment in extra policing; or the community services efforts, this is a multifaceted approach, with a lot of different activities designed to minimise alcohol harm in communities.

It is a priority of our state government to reduce harm caused by the consumption of liquor. Alcohol-related harm is a longstanding complex issue, and, as I said, there is no one simple solution. The formalisation of the banned drinkers register trial through amendments to the Liquor Control Act are a key step in supporting the continued operation of the BDR to improve its effectiveness and is one of several measures in place to aim to tackle alcohol misuse and provide support and protection to Western Australians experiencing alcohol harm.

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.

I will give members some history about the BDR. In January 2021, the state government through the Department of Local Government, Sports and Cultural Industries commenced a two-year trial in the Pilbara. Subsequent trials commenced in the Kimberley in July 2021 and the goldfields in March 2022. A further BDR trial, as we well know, commenced in Carnarvon and Gascoyne Junction in May this year. A BDR is a more targeted approach to harm minimisation and is aimed at restricting access to liquor in cases when an individual's level of consumption is causing harm to themselves and others in their life. Since their inception, the trials have been run as administrative programs and liquor licensees in the relevant regions participated on a voluntary basis and have been supported by industry. I want to point out that the Liquor Stores Association of WA and Australian Hotels Association have been keen partners in these trials and the program.

In 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 Cook 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 relating to regulating the sale, supply and consumption of liquor and minimising harm or ill health to people due to the use of liquor. 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 of 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. We spoke a lot about that.

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 to include those who work as healthcare professionals. 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 making a banned drinker order by 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.

This is another important aspect of these changes. It is not only about getting people subject to these orders or prohibitions on the BDR; it widens the net to include family and domestic violence offences in which alcohol is the cause, which have a direct role in people doing some of the terrible damage members have spoken about such as family disruption and kids not being able to get up and go to school of a morning and not being fed, and driving under the influence. These are the ways in which drinking and the abuse of alcohol have such a devastating impact on our community and these are people who need help. There is clinical intervention and health intervention but being able to say to a person that they cannot walk to their local liquor store and get takeaway alcohol is a powerful way to help them deal with their issues and give them the support they need to overcome really problematic addictions.

I have spoken at length. We have had a lot to say about this important legislation. Once again, I want to thank the advisers who played a critical role and everyone in the department who did such a great job getting this legislation to us. Thank you for the debate. Finally, we have every reason to be proud of this legislation. It does not exist

everywhere in this country. We are forging a frontier and it will have a positive impact. It is not a magic wand but it will have a positive impact in our community. I commend the bill to house.

Question put and passed.

Bill read a third time and transmitted to the Council.