

**LIQUOR LEGISLATION AMENDMENT BILL 2015**

*Consideration in Detail*

**Clause 1 put and passed.**

**Clause 2: Commencement —**

**Mrs M.H. ROBERTS:** Clause 2 deals with when the legislation comes into effect. It reads —

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Why is the legislation not all coming into effect on the one day? Why would different parts of the act come into operation on different dates beyond that?

**Mr W.R. MARMION:** Principally, there is more work to be done. Regulations on cellar door sales need to be developed. In addition, the alcohol intervention requirements provided for the last clause of the bill will need to be developed and a mechanism set up for them to be applied. There are also budgeting requirements. There is a fair bit of work to do to set up the AIR process.

**Mrs M.H. ROBERTS:** When the minister says “last clause of the bill”, when I look at it, the last clause is clause 28.

**Mr W.R. Marmion:** It is the second last clause, sorry.

**Mrs M.H. ROBERTS:** The second last clause is clause 27. Is it clause 26?

**Mr W.R. Marmion:** Yes.

**Mrs M.H. ROBERTS:** Is the minister referring to AIRs or alcohol intervention sessions?

**Mr W.R. Marmion:** AIRs—alcohol intervention requirements.

**Mrs M.H. ROBERTS:** So is it proposed section 172I on page 21?

**Mr W.R. Marmion:** No, it is the whole proposed division 2 of proposed part 7A.

**Mrs M.H. ROBERTS:** How many different dates does the minister anticipate this legislation coming into operation on? The first date would just be part 1, and then there are the remaining parts. Is it likely to be on two separate dates, three dates or more?

**Mr W.R. MARMION:** It would be up to the minister, but it is likely, to give the member a bit of an idea, that the first part of the bill to be enacted would be to do with leavers, so it will be the secondary supply provision. The next one is likely to be cellar door regulations, when they are done, and then finally the alcohol intervention requirements. That will give the member a bit of an idea of the process and the time line.

**Mrs M.H. ROBERTS:** Hopefully, I am correct in assuming that preparation of the regulations is somewhat underway. When is it anticipated that the regulations will be ready? Will that be prior to it being passed through the Legislative Council, or some date afterwards? Is the minister working to a time frame for a date next year, when he would anticipate having the regulations in place?

**Mr W.R. MARMION:** As a point of clarification, this bill has already been through the Council. I will seek advice as to when the regulations will be ready.

**Mrs M.H. ROBERTS:** Since the minister got to his feet, I will also get to my feet to give him a bit of time to find out the answer to that question. I am keen to know how far advanced he is in progressing the development of the regulations, and whether or not them being brought before Parliament is contingent on the passage of this legislation, or whether the minister is looking at a date next year. Presumably, with this bill going through this house, and given that it has already been through the Council, there is not much cause for delay in the regulations. I am guessing it is not going to be ready for leavers this year, so when will we see the regulations? Will it be in the early part of next year; and, if not, why not?

**Mr W.R. MARMION:** There are a couple of points there. Firstly, the regulations are not needed for the secondary supply provisions, so they can come in straightaway. Parliamentary counsel wants the bill to go through before they draft the regulations, so parliamentary counsel has not started drafting them. We cannot give a time frame, but they will be started once the bill goes through.

**Mrs M.H. ROBERTS:** Further to that clause, part 1 of the Liquor Legislation Amendment Bill comes into operation on the day it receives royal assent. Presumably, this legislation will be passed within the next couple of weeks and the minister has just advised us that the area of secondary supply does not require any regulations, so is it intended to progress the royal assent of this bill so it can be in force for this year's school leavers period?

**Mr W.R. MARMION:** If the bill is passed today, we can get it to the executive council meeting of 10 November. It is possible if the bill is passed this afternoon that the secondary supply provisions could be brought in before leavers period this year.

**Clause put and passed.**

**Clause 3 put and passed.**

**Clause 4: Section 3 amended —**

**Ms L.L. BAKER:** My question is about the term “cellar door permit”. I am reading back through the submissions made in relation to the review of the Liquor Control Act and I am particularly looking at the section from Wines of Western Australia, which submitted that restrictions on producers' licences should be relaxed to include provisions for the establishment of what they call a “collective cellar door outlet” and the ability for licensees to sell liquor from a retail office outlet. Can the minister explain to me the relationship between the term “cellar door permit” and the meaning it is given in proposed section 61A(1) and the term “collective cellar door”—in this case “collective cellar door outlet” might be a natural extension of that. The minister might just want to explain what a permit is.

**Mr W.R. MARMION:** In this clause the definition of “cellar door permit” relates to clause 9, which as the member just mentioned will insert a new section 61A in the Liquor Control Act. A collective cellar door provision is being introduced. I will get to the beer bit in a minute, but a wine producer can have cellar door sales now. This bill allows a collective of —

**Ms J.M. Freeman:** Vignerons.

**Mr W.R. MARMION:** Vignerons is the word I was looking for! A collective of vignerons could set up a collective cellar door sale somewhere, for instance in the centre of Margaret River, that would be a second outlet for them. They could have one at the vineyard and they could form a collective in Margaret River where wine tasting could occur. A similar thing can be done with beer.

**Ms L.L. BAKER:** I thank the minister; that is very helpful. Do these amendments mean that the cellar door permit referred to in clause 4 that we are asking questions about now is the same as the collective cellar door permit or will a producer need to have two permits—one to sell on the premises where they grow the grapes and the other to sell down the road in the centre of Margaret River, the Swan Valley, Pemberton, Denmark or any of those places?

**Mr W.R. MARMION:** It is a bit tricky.

**Ms J.M. Freeman:** Tell us, minister!

**Mr W.R. MARMION:** I will see whether I can. At the moment when a vigneron gets a licence, they can sell from the cellar door, so there is already a system in place under the licence to use a cellar door. This bill introduces the term “cellar door permit” and regardless of which way they want to go, this allows them to have a collective; so once they have a permit, it allows them to form the collective, but it also means they can do the cellar door sales under the liquor licence anyway.

**Ms J.M. Freeman:** Under the vigneron licence?

**Mr W.R. MARMION:** Yes, under the liquor licence—vigneron licence, correct. It is called a producer's licence.

**Ms L.L. BAKER:** I might have to get a bit more clarity on this. The cellar door permit does the same thing as the collective cellar door permit, I get that; it makes complete sense. Is it something I would have to apply for? I already have a licence to sell wine off my property in “Mahogany Estate”, and I am selling happily with quiet tasting and whatnot. Then I apply to get this new fabulous cellar door permit, because even though it is not called a “collective cellar door permit”, it in fact enables me to whizz down to the bottom of the hill and have a caravan or something that is licensed and sell with a number of my mates who have licences as well. Is that right?

**Mr W.R. MARMION:** What is the specific question?

**Ms L.L. BAKER:** The specific question is whether “cellar door permit” means the same thing as “collective cellar door permit”. That is the first question. Does “cellar door permit” mean the same thing as if I put the word “collective” in front of it?

**Mr W.R. Marmion:** It could be for both. There could be a cellar door permit just for a producer's own space, yes.

**Ms L.L. BAKER:** Yes, I have got that. Does it mean that there is a separate level of approval from my licence to have the vineyard at "Mahogany Estate"?

**Mr W.R. MARMION:** Correct, because a person cannot just go and do it. This is the permit that allows liquor people to approve the premises, because a lot of things have to be looked at in order to give the approval, which will be covered in other clauses we will get to. A permit is needed to set up another place to sell, because a producer already has a place and that is already covered by the producer's licence. The reason there is the cellar door permit is to be able to go to another place to sell.

**Ms J.M. FREEMAN:** I have always understood that a cellar door is attached to the cellar, which is attached to the vigneron, which is attached to the producer.

**Mr W.R. Marmion:** Correct.

**Ms J.M. FREEMAN:** This is not what a cellar door here is; there is a liquor store that can say it sells the produce from the people attached to the liquor store. Is that right? Is it a liquor store under a fancy name of "cellar door", because it will no longer have to be attached to one vigneron and producer? Why is it not called a "liquor store" and why do they not go for a liquor store licence?

**Mr W.R. MARMION:** There is a difference. I know that the member is laughing and she thinks this is lots of fun and that is why she is here. I had a briefing on this lasting hours and I have got to remember it all again.

**Ms J.M. Freeman:** I am not playing with you, minister. I am honestly interested.

**Mr W.R. MARMION:** I know, and I am interested in giving the member the answer. A liquor store can sell anything it likes —

**Mrs M.H. Roberts:** Within limitations.

**Mr W.R. MARMION:** Yes, but there are more limitations on a cellar door permit. Under this permit a producer will be able to provide tastings and to sell produce from their vineyard, but if another vineyard is part of the collective, people will be able to taste a range of wines. Let us assume this is in the Margaret River region and a collective has been set up and that there will be a range of wines from two or more vignerons. People can taste the wine and then buy bottles of wine, but people cannot purchase a glass of wine at these outlets.

**Ms J.M. FREEMAN:** Can someone purchase a glass of wine at the cellar door and can the cellar door outlet have not only wine tasting but also beer tasting, spirits tasting and tasting of other alcohol products? Can all of those manufacturers in the south west have a cellar door permit?

**Mr W.R. Marmion:** Can the member try to keep it to one question?

**Ms J.M. FREEMAN:** I will pose one question, and then I will stand and ask another question. Can someone purchase a glass of wine at a cellar door outlet with a cellar door permit?

**Mr W.R. MARMION:** No.

**Ms J.M. FREEMAN:** The minister says that the cellar door outlet has to be a group of vignerons.

**Mr W.R. Marmion:** It could be one.

**Ms J.M. FREEMAN:** It could be one or a collective. Can vignerons, beer producers and spirit producers in that collective all do different tastings and make sales in the same cellar door outlet?

**Mr W.R. MARMION:** Proposed section 61A in clause 9 specifies that it can only be beer and wine. I have had clarification and they will correct me if I am wrong, but beer and wine can be sold at the same premises.

**Ms L.L. BAKER:** Does it also delineate size? How many people can be in a collective—300, 30, two? It can certainly be one—a small collective of one! I am happy to wait.

**Mr W.R. MARMION:** Applicants have to go through lots of approvals. There is probably no limit on the number, but the local planning authority might have a view on that. In issuing the permit for the collective, there can be a whole range of things that the director of Liquor Licensing would have to take into account, including that the local authority might not like having too many producers. Those sorts of things will be taken into account.

**Ms J.M. FREEMAN:** Can there be a cellar door for producers who are not in that region? For example, to compete with the Margaret River wine region, can a Barossa Valley winery decide to open a cellar door so that people can taste and purchase Barossa Valley wines in Margaret River?

**Mr W.R. MARMION:** They can in the Barossa Valley, but not in Western Australia. This will not allow them to do that.

**Ms J.M. FREEMAN:** What provision of the bill does not allow them to do that?

**Mr W.R. MARMION:** To be set up as a collective under this act, they need to have a Western Australian licence and be a Western Australian producer.

**Ms J.M. FREEMAN:** I have moved on from cellar door and have had a little think about how a producer from the Barossa Valley could be a Western Australian producer, but that is being a bit obtuse.

The clause proposes to amend the Liquor Control Act to state that “Executive Director, Public Health has the meaning given in the Health Act 1911 section 3(1)”. As we are dealing with one question at a time, for the purposes of *Hansard*, can the minister read the definition?

**Mr W.R. MARMION:** We do not have the Health Act on our table. We could stop.

**Ms J.M. FREEMAN:** That is all right. I am doing it like this because we are asking one question at a time. For the purpose of this, it does not go to anything. Given the Liquor Control Act has been going for some time, why is it deemed necessary that “Executive Director, Public Health has the meaning given in the Health Act 1911 section 3(1)”?

**Mr W.R. MARMION:** It is an administrative provision that parliamentary counsel has included. It is to bring the definition into section 3 of the act; it used to be in section 69(8b). It has been deleted there and it has been brought here.

**Ms J.M. FREEMAN:** So, section 69(8b) goes to the purpose of getting new applications, and I assume that it is so the executive director can report on an application. The real question I want to ask, and why I am going to do this, is that now that the Alcohol and Drug Authority is under the Mental Health Commissioner, how does that interplay with applications being purely determined by the Executive Director of Public Health? I may have answered my own question: it is because the Executive Director of Public Health is the only one who can intervene. Was any consideration given to broadening that intervention to the Mental Health Commissioner, whose office now includes the Alcohol and Drug Authority? It seems that by bringing this out of a particular section and putting it into the definitions, it has given primacy to the Executive Director of Public Health. I understand that the minister says it is an administrative point, but given the Mental Health Commissioner has carriage of the Alcohol and Drug Authority, what impact and interplay does that have between those two organisations, in particular the Mental Health Commissioner, who has a very important role to play in alcohol and drug issues and the impact on our community?

**Mr W.R. MARMION:** There has been no change. I understand that is another possibility, but it has always been the Executive Director of Public Health who is the person with the power. Obviously they can authorise other people so long as they have certain qualifications.

**Clause put and passed.**

**Clause 5: Section 40 amended —**

**Ms L.L. BAKER:** Before we get too far into this clause, there are a number of terms that have come up that are worth putting on *Hansard* at this point. So far we have dealt with only four or five lines of the bill but we have had reference to “licence” and “permit”; and proposed subsection (2A) in this clause refers to “certificate” and “application”. Could the minister please run through, for the sake of *Hansard* again, what those four terms refer to, perhaps in priority? Let us do that first and I will ask a second question. The words are “licence”, “permit”, “certificate” and “application”.

**Mr W.R. Marmion:** I have no idea what you are talking about.

**Ms L.L. BAKER:** These guys will!

**Mr W.R. Marmion:** Is the member talking about section 39 in the act?

**Ms L.L. BAKER:** No, I am talking about the heading “Section 40 amended” in clause 5 of the bill, and I am asking that some terms be defined for *Hansard*. We are only a few lines into these amendments and I am losing track. I would like the minister’s team to provide for *Hansard* the definition of “licence”, “permit”, “certificate” —

**Mr W.R. Marmion:** Do you want to write them down?

**Ms L.L. BAKER:** There is only one more— “application”.

**Mr W.R. Marmion:** I do not know unless I look in the act.

**Ms L.L. BAKER:** I understand. Honestly, I am asking only because I do not know, not because I am trying to cause problems.

**Mr W.R. MARMION:** They are in the act. Section 3 of the Liquor Control Act states, “licence means a licence granted under this Act”. The next one is “permit”. The act states, “permit means an extended trading permit issued under section 60”. The next is “certificate”.

**Ms L.L. Baker:** Can I interject? A licence is the capacity to license your property to grow grapes and produce wine, or to produce wine from grapes; and a permit is the ability to sell that collectively if you want to on your own.

**Mr W.R. MARMION:** A licence is a permanent overarching thing. A permit is a specific subset of the licence that allows somebody to do certain other things.

**Ms L.L. BAKER:** I thank the minister for that. Proposed subsection (2A) states —

The certificate referred to in subsection (1) is not required to be provided at the same time as the application but the application cannot be granted until the certificate has been provided to the licensing authority, unless the licensing authority otherwise determines.

As we discussed before under the heading “Section 40 amended”, I am now looking for a definition of “certificate” that we are referring to and putting that definition into *Hansard* as well as what the “application” is for. What is a “certificate” for and what is an “application” for?

**Mr W.R. MARMION:** What happens now is that someone cannot get a licence until they go to the local authority and get their planning certificate. This clause will stop the red tape so that the liquor people can look at processing the application at the same time as the local authority is running through its planning certificate. They still cannot get their liquor licence until they have a certificate from the planning authority. That is what it is all about.

**Ms L.L. BAKER:** I thank the minister. That makes it pretty clear that the certificate being referred to and the application is the process to apply for planning approval to have something in this particular area on this particular property or at this particular restaurant. I understand that the clause means that people can go to both at the same time: to the local government authority for the planning approvals that they get through a certificate after making an application for it, and the separate process they can also start, which is through Barry Sargeant and the Liquor Commission.

**Mr W.R. MARMION:** Yes. To clarify what I said—Mr Sargeant is not there now—the Liquor Commission will not give them the licence unless they have the planning approval.

**Ms L.L. BAKER:** For how long can they hold their permit or their hypothetical approval to get the permit? I will explain this more clearly. The minister says that even though a person can apply for them at the same time, one has to happen before the other can be accepted. The internal workings of the Liquor Commission are probably a dark and mysterious thing, but what I am imagining happening is, say, the City of Bayswater gets my application, is looking at the planning implications and is processing that. At the same time, Barry Sargeant and the commissioners are looking at my permit and licensing processes and whatever I have applied for. So until one pops out of the local government, the Liquor Commission cannot tell me the result of the process I have entered into, even though it might have decided months before the local government gives me something—because we all know that local governments are so efficient! That is okay. I think I understand the implications of that.

**Mr W.R. Marmion:** That is correct.

**Ms L.L. BAKER:** Is there a limit to the time I can wait once I have been given a permit but not told because I am still waiting on planning approval? How long is that wait before the local government says, “Bugger off and come back later”? I do not know whether I have explained that very well.

**Ms J.M. Freeman** interjected.

**Ms L.L. Baker** interjected.

**Mr W.R. Marmion:** I cannot hear my advisers when you are both talking because you are coming from the same direction.

**Ms L.L. Baker:** I am sorry.

**Mr W.R. MARMION:** I will sum up all that. There is technically no limit, but I think that there is a power to strike out an application. If it takes too long, I understand that the director of Liquor Licensing could say, “I will just strike it out.” I understand that he might have that power but I do not know what that time would be.

**Ms J.M. FREEMAN:** I hazard to say that it has nothing to do with us talking; maybe he needs to go and get his ears checked.

**Mr W.R. Marmion:** I hear you a lot better than my advisers though.

**Ms J.M. FREEMAN:** This clause will delete “shall be accompanied” and insert “must be supported”. The words “accompanied” and “supported” are quite different in their meaning, both their literal meaning and how they can be interpreted in law. I understand that for the purposes of this provision the intention is to stop legal red tape, as such, because some person at a front desk has said, “No, no, I can’t accept your application because it has to be accompanied”—accompanied means go with—“with that application.” That has meant that an application cannot be put in until the planning approval has been put in from a local government authority. The intent of this amendment is that someone can have two processes going concurrently, and at the time the planning approval occurs, it comes in and brings together the two chains to complete the link to get it through the process. I am fully cognisant that that is what seems to be the intent of this amendment. The member for Collie–Preston, who is also the shadow spokesperson, wanted me to raise something on his behalf because he unfortunately had to go and do a media interview. He feels that there is a bit of double-speak around this, and that in an age of simplifying legislation, it seems to, in fact, complicate it. I wanted to put that. I am happy to sit down and to then raise what I want to raise. I wanted to put what the member for Collie–Preston and shadow spokesperson asked me to raise. He is back in the chamber now. I have just raised the concerns that the member for Collie–Preston, as shadow Minister for Racing and Gaming, had with clause 5(1) and changing the wording from “shall be accompanied”, and with the insertion of proposed subsection (2A). I put the member’s view that it establishes some sort of double-speak. I will give the minister an opportunity to respond to that.

**Mr M.P. Murray:** Thank you.

**Mr W.R. MARMION:** I think the member answered it in how she raised the question. The current words are “shall be accompanied”. The member quite correctly said that the interpretation of that is that when one is applying for a licence, it has to be accompanied by the planning certificate. The bill seeks to change those words to “must be supported”. The implication is that before a person will get the licence, it has to be supported by that certificate rather than accompanied by it. Under the previous words, somebody could say that because the certificate was not provided with the application, they would not process the application. That is unfortunately what happens now. This will unwind the red tape so that the director of Liquor Licensing can consider an application for a liquor licence even though the planning certificate has not yet been received. That is why we are changing the wording from “accompanied” to “supported”, because accompanied meant that the certificate must be with the application. The member quite correctly said that.

**Ms J.M. FREEMAN:** I am interested to hear the shadow spokesperson on this issue, because it was his question.

**Mr M.P. MURRAY:** I was under the impression that we would have less red tape. Even though the minister has explained the difference between “supported” and “accompanied”, what would “supported” mean? Is it by documentation, is it verbal or otherwise? I am a bit confused by it all.

**Mr W.R. MARMION:** Basically, it means that it still has to be supported, so a person will not get a liquor licence unless it is supported by a certificate. The clever use of this word means that the processing of the application can be started until it is proven that it is not supported. If the word used is “accompanied”, processing of the application cannot begin unless it is accompanied by the certificate, so that means that there is a delay in getting the whole process done; it makes it a linear process rather than a concurrent process. This is the wording as provided by parliamentary counsel. I have had a lot to do with parliamentary counsel over 30 years. I went to uni with two of them. Every time I said I knew a member of Parliament who might be a lawyer who was really good, they did not say kind things about that person in terms of their ability to draft legislation. Drafting legislation is extremely specialised. This is all that these people do their whole lives. This is how they decided to draft this provision.

**Mr M.P. MURRAY:** I am certainly hearing that and understanding some of it, but what we are trying to do here is to get on *Hansard* how the process has been sped up and how it is going to work. The further we go, the more confused I get. Things have not changed from the previous drafting.

**Mr W.R. MARMION:** If we go to proposed section 40(2A), it specifies that —

The certificate referred to in subsection (1) —

That is the subsection we were just referring to —

is not required to be provided at the same time as the application ...

The next bit clarifies that the certificate does not have to be provided at the same time.

**Ms J.M. FREEMAN:** My question is about the word “supported”. I have been involved in legislative drafting and actually took a difference of opinion with the drafters to the Supreme Court and was successful, so let us not go into a bidding war about this stuff. My question is about changing the wording. I understand the intent. It is not the intent that I am concerned about; it is the result that I am concerned about. Support implies assistance.

A definition of “support” is that it implies to give strength, to offer help and to give advice. That is what “support” implies. Will the support be on any grounds other than the certificate of approval for planning? Can it be construed by an applicant as being other support, such as something that says that it is in the public interest? In the alternative, can it ever be construed as being a certificate has been given but the application is not supported? My concern is with the language in this instance, which is “must be supported”. I understand that when someone puts in an application, they will need a certificate from the authority to show that they have planning approval as per section 40(2). That does not have to be concurrent, but success of the licence application will not occur unless the applicant has such a certificate. I understand that, but that to me does not imply support of a certificate; it just implies that a person needs to have a certificate to complete a process.

I suppose I want the minister’s legal people to assure me that the certificate is purely a certificate of approval that it meets the planning and other processes as outlined in section 40(2)(a),(b) and (c) and that it is not to be taken in any way as anything around assistance, giving strength or offering help or advice. It is simply that for an application to proceed to success, it needs to be in the presence of a certificate. That certificate does not have to be provided at the same time as the application, but it does have to be provided during the processing of the application before the licensing authority under the Liquor Control Act. I want to be assured that that support does not imply anything beyond being a simple procedural process—procedural process is probably a duplication of words—but that it is simply beyond that stepped-out process, being able to happen concurrently instead of one preventing the other. Does that word simply limit it to the aspect of a process so that it cannot be read in any way to be anything greater in terms of support for an application? I want to be assured that the certificate just shows that it meets the criteria and that the support is simply a process-oriented thing and is not, in terms of assistance, giving strength or offering help or advice.

**Mr W.R. MARMION:** Correct. It is part of the process, but I will define it a bit better. It is actually part of the process only for planning from the local authority. The proposed wording is it “must be supported” by a certificate. A person gets the piece of paper—the certificate. All the certificate is doing is showing that the local authority has given them the tick. It does not mean that they are going to get the liquor licence, because that is only one part of the process. There may be other reasons that they are considering—for instance, the local member for Collie–Preston might have a reason why it is not a good idea to grant that licence—so the director of Liquor Licensing can take other factors into account, but it must be supported. Part of the process is that a person still has to get support via a planning certificate before the director of Liquor Licensing will grant the licence.

**Ms L.L. BAKER:** When a person gets planning approval, it has a sunset clause in it, so it will last for two years. Let us say I have whizzed off, I have my planning approval from the City of Bayswater and have used that to support getting my permits. It is all hunky-dory and then the builder goes broke or the bushfire goes through and I do not have any grapes so I cannot progress it. I have the planning approval but the two-year mark comes and goes and it lapses. Now I have the other thing approved, but I no longer have planning approval because it lapsed. What happens?

**Mr W.R. MARMION:** Let me try to work out the little story the member is saying. What we are trying to achieve here will make that less likely to happen. This is an improvement on that situation, because currently a person has to wait until they get their planning certificate, and it might have only two years or whatever. This will allow the person at the same time they started getting the planning certificate—it might be two years before—to actually process the licence, so when they provide the certificate, the director of Liquor Licensing might have already finished and just says, “Yes, I have ticked all my other boxes and that is last box to tick—bang.” Therefore, the person can get their licence straightaway. This is a huge improvement on what is currently there.

**Ms L.L. BAKER:** I totally get that because having fought two applications in the Liquor Commission with Coles and Woolworths, I am well aware of the advantage of taking as long as one possibly can to get something through the Liquor Commission and hope that their approvals run out in the meantime and then all deals are off. What I am asking the minister is: what happens if, through no fault of the Liquor Commission but through my own personal fault because I was not ready to go ahead with the enterprise and action the planning approval—put the grapes in bottles or whatever it is—my planning approval, which has a sunset clause of only two years, lapses? It is not because of anybody’s fault, but because I did not get it done in time; however, I still have this other thing that I have been approved for. Does that last or do I have to go back and start the whole thing again? Is that sensible? Does the minister understand that?

**Mr W.R. MARMION:** I understand the question now. That could be a problem because the person has to have the planning certificate —

**Ms L.L. Baker:** To have the other one. Yes, I know.

**Mr W.R. MARMION:** That is right. The person would have to go back and get it again.

**Ms L.L. BAKER:** I think what the minister has just told me could be a bit of a problem. It might not be a problem, but I think what the minister has just told me is if my planning approval lapses so too does this other certification lapse. Are both null and voided at that point?

**Mr W.R. MARMION:** It depends if the person has a licence. The liquor licensing people do not go to check. If the person has a certificate and they have got across the line, because it was still valid because the two years were not up, and they then got their liquor licence —

**Ms L.L. Baker:** I am all set to go!

**Mr W.R. MARMION:** They are ready to go. The liquor licence is not taken off them.

**Ms L.L. BAKER:** Just to get it completely clear: my planning approval has lapsed; I no longer have approval to go ahead, so I cannot, until I go back and revisit that. That is fine. But I do not have to go back through the Liquor Commission's processes, I can still hold onto this licence, even though I have not got planning approval anymore.

**Mr W.R. Marmion:** I am just clarifying that because that is how I would interpret it.

**Ms L.L. BAKER:** Yes. Is that a problem?

**Mr W.R. MARMION:** It is not a situation that the Liquor Commission has come across before. The person has their licence but, at the end of the day—I am just thinking this through as a planner —

**Ms L.L. Baker:** I forgot you were a planner.

**Mr W.R. MARMION:** Let us say if a person has to build something —

**Ms L.L. Baker:** In two years.

**Mr W.R. MARMION:** And they have not started, the local authority will not let them build it.

**Ms L.L. Baker:** That is correct! I have no planning approval anymore.

**Mr W.R. MARMION:** The thing is that the person goes back and applies again. But the good news is that the person knows that when they go back to apply, the director of Liquor Licensing has ticked off on their liquor licence.

**Ms L.L. BAKER:** Just to make it clear: it is possible that I could have the permission to do that bit, but not the planning permission? It is the opposite to where we started. We set up a system, which is probably a good idea, unless a person was trying to stop it happening, in which a person has to have one before the other is issued, but then all of a sudden when they have lost that one, but they still have this one. That is correct? That is all I am asking: is that okay? It seems a bit silly to me. Is that right?

**Mr W.R. MARMION:** That is how it is. The developer—it might be a little bottle shop or something—goes to get planning approval and under this provision, they will be lucky and can concurrently go to get the licence. There might be the odd one. I imagine for the majority, 95 per cent, that is going to be good. My advisers have said they have not come across this situation, so obviously those situations are rare. Hypothetically, it is very possible. At the end of the day, the person has their liquor licence and they are very happy; they have met all the requirements, they are a good person, the police have ticked off on them and they have their planning approval, and there it is. Then it is up to the local government. It could say, "We gave you two years." This is outside this legislation, by the way; we are now going into the Minister for Planning's area, or more into local government. The local government could say, "Bad luck. We gave you two years and that is the local authority, you now have to apply again." That is another thing the person would have to go through. I am saying that, not as the Minister for Planning or even in this area; that is my general view.

**Ms L.L. BAKER:** I think it is important to have on *Hansard* what the interpretation is because that is what we do here. We write laws and approve them and put interpretations on the public record for the history of our state, so I thought it was important to establish that we can have one without the other and then the other without the one.

**Mr W.R. Marmion:** Yes. That is what I have said.

**Ms L.L. BAKER:** Yes, thank you.

**Clause put and passed.**

**Clause 6: Section 55 amended —**

**Ms L.L. BAKER:** This clause amends section 55 of the Liquor Control Act. The member for West Swan has asked me to ask a question about this clause. So, similar to the minister being dumped—I was going to say in a vat of wine—I got dumped about 10 minutes ago, and I have been trying to figure out exactly what the member would like me to ask on this clause, so here I go. I am looking for some clarification of this amendment. I am not



that interested in the beer side of the amendment, because, frankly, I do not drink beer, but I am interested in the wine part of the amendment. Proposed section 55(1) states in part —

...

- (c) to sell or supply liquor, other than liquor produced by the licensee, from the licensed premises —
  - (i) if the liquor is consumed ancillary to a meal in a dining area on the licensed premises; or
  - (ii) only for the purposes of tasting.

Can the minister describe how he sees that working in practice for the winemakers and vigneron in the Swan Valley, for instance?

**Mr W.R. MARMION:** We have to read it by going right back to the start of what the action item is. Paragraph (c)(i) provides that they can sell or supply liquor that is not produced from their premises only if they have a premises that can supply a meal in a dining area; otherwise, they can sell or supply liquor only for the purposes of tasting.

**Ms L.L. BAKER:** Does that mean only liquor from the region—that is, only liquor from Western Australian licensed suppliers—or can they sell French champagne, for example?

**Mr W.R. MARMION:** I asked this matter in my briefing. They can sell any wine. They can sell French champagne, or Barossa wine, if it is with a meal. A vigneron could have a function centre and hold weddings, and they can serve whatever wine they like, because they are also serving a meal.

**Ms L.L. BAKER:** Thank you. The vigneron in the Swan Valley are particularly interested in whether people will be able to buy a glass of wine and move into the restaurant. A person may be at the front of the restaurant having a glass of wine under this whiz-bang new licensing regime, and they may have had only a sip of their wine and their meal is called, so they have to rush into the restaurant. Are they permitted to take that glass of wine with them into the restaurant? In other words, does this amendment remove the restriction on customers taking wine between a cellar door tasting facility and a dining area within the same licensed premises? That was a more sensible question, was it not?

**Mr W.R. Marmion:** Yes.

**Ms L.L. BAKER:** The minister said yes.

**Mr W.R. Marmion:** What is the specific question again?

**Ms L.L. BAKER:** Does proposed section 55(1)(c)(i) and (ii) allow people —

**Mr W.R. Marmion:** Sorry. I do not know what (c)(i) and (ii) means.

**Ms L.L. BAKER:** I am referring to page 4 of the amendment bill, lines 15 to 21.

**Mr W.R. Marmion:** I think I have got it. I am looking at three documents, but I think the one you are looking at —

**Ms L.L. BAKER:** I hate doing that. It is very confusing every time we do that.

**Mr W.R. Marmion:** So what is your question again?

**Ms L.L. BAKER:** Does this address the concern of the Swan Valley Regional Winemakers Association, which is seeking an amendment that will remove the restriction on customers taking wine between a cellar door tasting facility and a dining area within the same licensed premises?

**Mr W.R. MARMION:** If we can jump ahead to clause 17, it is not only that type of situation—it is the City Hotel in Perth, for instance, where people cannot —

**Ms L.L. Baker:** Yes.

**Mr W.R. MARMION:** Clause 17, when we get to it, covers being able to traverse from one place to another. However, there is another complication: if a vigneron is selling a glass of wine, it has to be served with a meal. Is that right?

**Ms L.L. BAKER:** Not if a person is tasting.

**Mr W.R. Marmion:** Yes, at the cellar door with the wine.

**Ms L.L. BAKER:** Now the minister is confusing me. I might let the minister ruminate on that. It might be a bit hard to swallow.

**Mr W.R. MARMION:** Just to clarify, under clause 17, if people are allowed to not only taste wine but also purchase wine at a vineyard, they will be able to take their glass of wine into the other area.

**Ms L.L. Baker:** Thank you.

**Mr M.P. MURRAY:** I also have a concern about proposed section 55. Proposed new subparagraph (iv) states —

beer, for consumption on a part of the licensed premises approved for the purpose by the Director;

Why is it only a “part” of the licensed premises?

**Mr W.R. MARMION:** This is consistent with the existing section 55(1) of the Liquor Control Act for wine, which provides that the director of Liquor Licensing can specify certain parts of the premises for the consumption of wine. The premises could be the whole property, including the sheds and everything else. Is the member’s concern that for beer, it is not all of the premises but only a part of the premises? Is that the problem?

**Mr M.P. Murray:** Yes. It is only a “part” of the licensed premises.

**Mr W.R. MARMION:** I am not an expert in this area, but my understanding is that the licence specifies in which part of the premises alcohol can be served. It could be at the WACA, where one area is licensed and alcohol can be served in that area but it cannot be served in other areas.

**Ms L.L. BAKER:** I am sure I am going to ask this question in the wrong place, but what about wine tasting? Does this mean that wine tasting does not necessarily need to be free and people can now charge for wine tasting?

**Mr W.R. MARMION:** People are permitted to charge if they want to, but tasting is normally free. It is not a condition.

**Clause put and passed.**

**Clause 7: Section 58 amended —**

**Mr M.P. MURRAY:** This clause will delete the reference to nine litres in section 58 and insert a reference to four litres. Can we have some understanding of why the government has done that or why there is a restriction?

**Mr W.R. MARMION:** Obviously it used to be nine litres. This is purely for wholesalers. It is not for someone who produces wine; it is not for a vigneron. It could be to get rid of old stock. It has to be less than 10 per cent of turnover. Staff could give a special deal. A person had to buy nine litres, which is a lot. This will make it a lot easier. It could be old stock. Now they will have to buy only four litres. It is a good clause.

**Clause put and passed.**

**Clause 8: Section 60 amended —**

**Ms L.L. BAKER:** I refer to proposed section 60(4)(ia). The minister said in his second reading speech that this opportunity will be restricted to one outlet per producer, per wine region, or local government district in the case of beer producers, where their respective production facilities exist. I am trying to find out how this will work. If I have entered into a collective with a cellar door permit, I am allowed to do that only once per region.

**Mr W.R. Marmion:** Correct.

**Ms L.L. BAKER:** And I can have it at my house as well, because I have a licence to do it there. However, I am limited to only one other collective —

**Mr W.R. Marmion:** If you have only one vineyard.

**Ms L.L. BAKER:** If I have only one vineyard—otherwise I can license another one. Can the minister explain why there is a difference between beer producers and wine producers in this clause?

**Mr W.R. MARMION:** I remember listening to the second reading debate and hearing everyone ask why it took so long to bring in the bill. From the briefing I had, I now understand why it took so long, because even simple things become complicated. If it was only for wine or only for beer, it might be all right. There are specific wine regions, so it sounds logical to set up a collective within the Margaret River region, the Geographe region, the Pemberton region—any of the different regions. That is the rule. If someone has two vineyards, they could have two outlets. Wine is pretty simple to work out; it is logical. Beer is a little more difficult. It does not work like that. A person can set up a brewery wherever they like. The bill specifies that the outlet has to be within the local government area, so there is a difference for beer. Beer does not have special regions where the malt is grown; it is not worked out in that way. Bootleg Brewery is one I know of in Margaret River. It could have an outlet in the main street of Margaret River, or in Busselton if it was in that shire, but it could not have one in St Georges Terrace, for instance. The second collective outlet for breweries is restricted to being within the local authority, but wineries can have one within their wine region.

**Clause put and passed.**

**Clauses 9 to 19 put and passed.**

**Clause 20: Section 122A inserted —**

**Ms L.L. BAKER:** This clause is the nub of the secondary supply issue. I think there were some very good comments about this issue during the second reading debate and I am sure that more comments will be made at the third reading stage. Will this particular provision of the legislation come into play on the date that the minister referred to during debate on clause 1 of the bill or will it be a later adoption?

**Mr W.R. MARMION:** If the bill is passed today, we can bring it in through the process I explained before through Executive Council, which will be on 10 November.

**Mr M.P. MURRAY:** I agree with the previous speaker that this is the main plank of the Liquor Legislation Amendment Bill. It is certainly disappointing that it seems that people have woken up and said, “It’s nearly summer time so we had better put something in place, and to make it look as though it is not a political issue, we’ll make a few other amendments around it.” Having said that, there are some small issues. I see that there is a fine of \$10 000. An 18-year-old could supply a 17-year-old at an underage party and he could be up for a \$10 000 fine, with no means whatsoever of paying it. Although I understand the intent of the heavy fine, could a breach notice be issued in that case?

**Mr W.R. MARMION:** There is always an issue when a fine is set. This is a maximum. The member gave the example of an 18-year-old supplying a 17-year-old, but it could also be a 45-year-old paedophile supplying a 16-year-old. There is leeway with the fine. If I spoke to some people I know, they would say that \$10 000 is not enough. It is always a case of degree. The court will have some leeway. I think that if an 18-year-old supplied their 17-year-old mates, they probably would not even go to court, but I cannot guarantee that; it will be up to the prosecution. There are certainly degrees of offence.

**Mr M.P. MURRAY:** The second part of my question was whether it could be dealt with under the Young Offenders Act 1994.

**Mr W.R. MARMION:** Only if they are a juvenile—if they are a juvenile, it could be, yes.

**Clause put and passed.**

**Clauses 21 to 23 put and passed.**

**Clause 24: Section 155 amended —**

**Ms L.L. BAKER:** Can the minister tell me why we have to insert proposed section 155(9A) into the Liquor Control Act? Is it not already a provision of the Criminal Code? If it is not in the Criminal Code, can the minister explain why not, and why it has been included in this legislation? It seems like we are giving police a direct responsibility to do something, and I find it a bit bizarre that they do not already have permission to do that somewhere. Can the minister explain?

**Mr W.R. MARMION:** This whole section of the act is about the powers of police. This proposed subsection clarifies that the police can seize an opened or unopened container, as is stated here, when they did not have that power before.

**Ms L.L. BAKER:** How did they manage the fireworks nights down on the river foreshore, and confiscating alcohol in public places? Ever since I was a small girl, I thought I was not permitted to drink alcohol in a public place without a licence, or whatever it is. Can the minister explain why this has suddenly happened?

**Mr W.R. MARMION:** The member raised the issue of the Sky Show, but there actually was a special permit for that. In that situation, police did have the power because of the special permit set up for that event. However, in non-special events, they could seize only opened containers. If a person is carrying a carton of beer under his arm, and has only one beer open, the police can seize only the opened beer but they could not seize the carton.

**Mr M.P. MURRAY:** Back on that issue, being one who has had alcohol confiscated many times, I wonder whether I can get it back. They might have confiscated my alcohol illegally previously. I am a little confused about how that happened previously.

**Mr W.R. MARMION:** Just to clarify, this provision applies to juveniles, and perhaps the member was not a juvenile at the time.

**Mr M.P. Murray:** I was.

**Mr W.R. MARMION:** I think that goes back just too far for us to worry about!

**Mr M.P. MURRAY:** On a more serious note, I do support this measure. Was the minister saying that before this measure, liquor could be seized only if it was open but now they can take the whole carton? Can I have that clarified please?

**Mr W.R. Marmion:** Yes.

**Mr M.P. MURRAY:** What happens if some irresponsible adults are driving down to schoolies week—I have seen it happen? The mother is driving the car and the boot is full of alcohol. If she says that it is all hers, does it stay in the boot? What penalties can be imposed, because we know what is going to happen at the finish, if she has not actually supplied the under-age drinkers with wine, beer or whatever?

**Mr W.R. MARMION:** That is a good hypothetical.

**Mr M.P. Murray:** With all due respect, you can watch GWN news every year and see the same footage.

**Mr W.R. MARMION:** Yes, but if a member of the police forces suspects—the car is full of kids—on reasonable grounds that a juvenile is contravening a provision of the act, that member of the police force may seize opened or unopened containers that they suspect, on reasonable grounds, relate to that contravention. There would have to be reasonable grounds for suspecting that the alcohol was for juveniles, I suppose. I know the member is opening up a bigger area, but this provision is allowing police to seize what they could not seize before, but they are seizing it from a juvenile, not an adult.

**Mr M.P. Murray:** What about one suspected of supplying?

**Mr W.R. MARMION:** How would we prove that? That is the problem.

**Clause put and passed.**

**Clause 25 put and passed.**

**Clause 26: Part 7A inserted —**

**Ms L.L. BAKER:** I mentioned in my second reading contribution that I have a personal interest in this clause, because it stemmed from work that my brother was doing with the police force. I am very keen to find out how this is going to work, because I remember the teething pains of working out how a course would be developed, who would then deliver the course, whether it would be an online course, whether it would be self-selecting, or whether parents could say “You have to do the course, Johnny, because you’ve been up to no good.” The police would order it, so can a parent opt in without a police referral? I have a lot of questions about this one, so does the minister want to take them one at a time?

**Mr W.R. Marmion:** Yes.

**Ms L.L. BAKER:** Can a parent refer a child for alcohol intervention or does it come only from the police?

**Mr W.R. MARMION:** It will come only from the police, because it is now an intermediate intervention option for the police. Instead of issuing an infringement, the police now have an intervention option. It is based on a similar option that is done for cannabis.

**Ms L.L. BAKER:** Can the minister tell me a bit about the sessions? What do they cover and how is it intended that police deliver them? Alcohol intervention session is defined in proposed section 172B as —

... an alcohol intervention session —

- (a) provided by a treatment provider approved under section 172J(2)(b); and
- (b) the content of which is approved under section 172J(2)(a);

I am really interested, because I remember well the cannabis interventions, and the impost that that was going to place on not-for-profit organisations in the mental health field and the drug and alcohol field who were going to be delivering some of that. How will the police organise themselves around contacting the not-for-profits or will they get someone else to deliver it—a corporate body such as Serco, for instance? I do not know. How will it work?

**Mr W.R. MARMION:** I will deal with the first part of the question. Juveniles who attend an alcohol intervention session will be informed of the following things: the adverse health and social consequences of alcohol use, the laws relating to the possession of alcohol, and effective strategies to address alcohol-using behaviour. They will not be run by the police; they will be run by the Mental Health Commission and they will be delivered by service providers.

**Ms L.L. BAKER:** I just want to know what the projections were for numbers of people who might be referred. I am aware that a pilot of this program with federal funding has been offered to be run during leavers week in the member for Mandurah’s raucous end of the world—I think it was down that way in Mandurah and probably Margaret River as well. It was down in the south west somewhere where kids go for school leavers week and get themselves into strife some of the time. How many referrals are expected; and are special events to be targeted or will it just be open all year round?

**Mr W.R. MARMION:** The police will have discretion for how the program is instigated. The program is based on the cannabis intervention scheme and it is estimated that about 800 notices will be issued per annum, which is quite a lot.

**Ms L.L. BAKER:** That is a good number. Can the minister share what it will cost in dollar terms for the contracts that will have to be given to the mental health or drug and alcohol agencies in order to deliver this intervention?

**Mr W.R. MARMION:** This will not come in when the bill is enacted because that will have to be worked through. The costings and all of the arrangements have to be worked up. When the bill is passed, the secondary supply provisions will be the first bit to come in, which will be straightaway. Then there will be regulations drafted, and that last bit will come in once the whole process has been developed. The program cannot just be set up straightaway; as the member quite rightly says, there will need to be dollars to run it.

**Ms L.L. BAKER:** That is what I figured would have to happen. I have absolutely no expectation that the government would have walked down this path of recommending this program and putting it into legislation unless there had been some form of costings of what one intervention is likely to be—although, I could probably ask my brother! Even if we knew that it would cost \$500 for an intervention, we would then know that a budget of half a million dollars was required—and we would then know what the not-for-profit sector would be asked to deliver. I am sure it would enjoy knowing that sooner rather than later.

**Mr W.R. MARMION:** There is a lot more work to be done. The whole process will have to get cabinet approval and it will then have dollars attached to it. It is early days and I do not have that data.

**Ms L.L. BAKER:** I put on the record my absolute incredulity that the government would put a bill into the house without having costed what the impact of it was likely to be. Hiding at the back of maybe the offices of the Ministers for Planning or Police must be some indication of what it will cost the state of Western Australia; otherwise, I would be asking the government to go back on every piece of legislation we have looked at and find out what the jolly costings are. The minister cannot possibly put a bill into the house without having some idea of what it will cost.

**Mr W.R. MARMION:** My understanding is that the multitude of departments involved, including the police, should be able to make the program work anyway, possibly in terms of their existing budgets—but if not, they will be able to add more money to it. That is being worked on at the moment. This is such a high priority. This is not my area, but, looking at the big picture, if this was in mines and petroleum, I could possibly see areas where thing needs to be done but not in another. The whole lot has to be considered in the context of what we are trying to achieve. This is a really good intervention if it means that someone will be stopped from going to a life of crime, for instance, because they started off in a bad way. The net benefits of it could be astronomical. It depends how the net present value is done.

**Ms L.L. BAKER:** The minister said there are a multitude of agencies involved in this, but my calculations are that the agencies involved in this are the police; elements of corrective services, if the juvenile justice system is involved; and the Drug and Alcohol Office—the Mental Health Commission as it exists now. I am not sure where the plethora of other agencies comes into it. That is three agencies for me.

**Mr W.R. Marmion:** I've counted them—two, three, four. I've counted the Drug and Alcohol Office and the Mental Health Commission.

**Ms L.L. BAKER:** I have counted the Mental Health Commission as one. All it has to do is issue contracts, which is not such a big impost. The police have to work out the system of referral and check they have been done and how they have been done. I think that what the minister has just told me is a matter of concern. I think he has told me two things. He has told me this is such a great program, and I agree it is a great program because I know who is behind it. It is a fantastic program and I think it is so good that I find it impossible to believe that the minister has just told me that agencies will not receive funding to do this, and they will have to look at other areas of their budget in order to fund this. Has anybody told Tim Marney, the Mental Health Commissioner, that he will have to find whatever the impost is of having the alcohol interventions contracted out across the sector; and, if not, why not? If this is such a priority and such a good program, I cannot accept that this government has not funded it.

**Mr W.R. MARMION:** I did not say that everything would be funded from them; they were the member's words.

**Ms L.L. Baker:** You said “find funding” minister; you did.

**Mr W.R. MARMION:** Yes, they will, but they can find funding by going to the consolidated account funds, can they not?

**Ms L.L. Baker:** So, you are accepting the fact that they do not have to cover this within their existing budgets?

**Mr W.R. MARMION:** I am not saying that either. I am just saying that all the agencies involved in this are across where they are at. There is an undertaking that this will not be implemented until funding is available, so the funding situation has to be sorted out before it is proclaimed. There will be consultation with the agencies, because it crosses agencies. There is not a multitude, but three then—I thought four, but anyway it is three now—all involved in working out the proposal. Once it is worked up and everybody is happy that there is sufficient funding to deliver services appropriately, it will be enacted.

**Ms L.L. BAKER:** I promise that this is the last question. I just want to say that I understand what the minister is saying, but I have a suspicion that the response he is giving me is not entirely representative of the facts. I say that only because I know this program has been going for several years under federal funding. I know there are costings available just because I know how the program works, and I do not think I am letting the cat out of the bag by saying that; I am sure I am within the scope of my job to say that. I simply want to put on the record that I do not think it is acceptable that the bill has been brought into the house without the right arrangements being made to fund these interventions. The minister has said to me, to this chamber, and to the parents and kids of Western Australia that they have to wait to find out how much this will cost and then he asks that agencies go cap in hand to Treasury to access this funding, when the government is already horrendously overspent and looking at a \$38 billion hole in its budget. I cannot for the life of me imagine how the minister will convince Treasury to send him a bucket of money in addition to what the agency is already getting. My deep fear is that this will be funded from existing budgets and that other programs will be stopped. This is exactly the same situation and arguments that we heard with the cannabis intervention programs in which funding for not-for-profits was redirected to meet the demands of cannabis intervention delivery, and other programs were short-changed. I put on the record that that is a grave insult to the value of those programs and the government should be ashamed that it has not funded this properly.

**Mr M.P. MURRAY:** I reiterate what I said earlier: that the government has proved the point that the bill has been thrown together to try to get something up for schoolies week and that the work has not been done. Having said that, and having heard the previous speaker, the member for Maylands, I ask whether money will be available for the system of alcohol intervention sessions to be enacted for this summer; and, if so, how will it work when we do not have an agency or a costing?

**Mr W.R. MARMION:** That aspect of the bill will not be up by schoolies week, which is only a few weeks away, but the provision on the secondary supply of alcohol will be. More work needs to be done by the agency to work up the alcohol intervention aspect in this part of the bill, so that will not come in before schoolies week. As I said before, the secondary supply of alcohol provisions, if passed today, will be up for schoolies week. The regulations around cellar door sales will have to be drafted, and parliamentary counsel does not draft those until the act is passed. A fair bit of work has to be done on the next part of the bill, which is the programs, processes and funding around that for the not-for-profits that will probably be delivering the alcohol intervention sessions. Work has to be done. It will be impossible to get that done for schoolies week, even if we pass the bill today.

**Mr M.P. MURRAY:** That is extremely disappointing, considering the amount of time since the review was tabled and that the schoolies issue is right upon us, and also considering that in 2013 a bill dealing with the secondary supply of alcohol had been brought to this place. The minister now tells us this legislation has no guts at all. It is appalling of this government to bring the bill in at this stage. The government would have been far better off bringing it in at the next phase and not giving people false hope. The government has covered up its inaction before schoolies week, and with the secondary supply of alcohol. I do not have the words, without swearing, to say how disappointed I am. Here we have eight pages in the bill that deal with alcohol intervention, and we have been told that this could be implemented for around 800 children, so that their problems are brought to light and quite possibly they could be put on a different path, but we do not have anything to fund that. That is absolutely appalling behaviour from this government.

Having said that, we have further work to do. The words “A police officer who suspects on reasonable grounds” in proposed section 172E leave a lot to be desired. Proposed section 172D states —

The Commissioner of Police may, in writing, appoint persons or classes of persons to be AI authorised persons for the purposes of section 172I or 172L, or for the purposes of both those sections.

Could the minister please point out who he intends those people will be?

**Mr W.R. MARMION:** Proposed section 172D gives the Commissioner of Police the power to appoint somebody. Under the current cannabis intervention process, the person is a drug intervention coordinator. This will give the Commissioner of Police the power to appoint someone, and it would be someone such as the person who is authorised under the current cannabis intervention process. That gives the commissioner the power to authorise or appoint persons, and their role will be to have the power to extend, manage or adjust the AIR. They might be given a time frame to complete something for whatever reason, and this person will be able to vary that and oversee it, which might need to occur.

**Mr M.P. MURRAY:** I have some concerns. Let us say that the Commissioner of Police turns up on his motorbike at a music festival that is out of control, and when he thinks about what he is going to do about it, he writes out a script for the security guards present. Is that a possibility, because the minister has not filled out the detail? I know it is far-fetched, but it is a possibility that this could happen in a young person's world.

**Mr W.R. MARMION:** The authorised person would have to be in the system and be trained et cetera. Anyone appointed to that position must be able to withdraw and manage notices et cetera. It would not be someone who could issue notices willy-nilly. It would have to be the person managing the whole process. For instance, the commissioner could not appoint the bouncer at Southbound Festival, even though reading the bill in black and white it appears as though he could.

**Mr M.P. Murray:** That's why I've asked the question.

**Mr W.R. MARMION:** I understand that, but practically the authorised person would need to have experience of running the alcohol intervention requirement program and to have control of the whole process.

**Mr M.P. MURRAY:** In the same clause, proposed subsection 172F(2) states —

An alleged offender need only complete a single AIS for each AIR given to the alleged offender, even if the AIR is given in respect of more than one alleged offence.

That means that little Johnny could play up on one side of the function, get a breach notice, go around the other side, get another one, come back and get a different copper over on the other side. He could end up with half a dozen for the night and that would have proved not much at all. How would that be managed? Little Johnny would then have to go to only one session to wipe out all those tickets. I know some young people who would use that process and say, "Righto, I've got one. What the hell! I can get half a dozen and get them wiped off when I go to the program."

**Mr W.R. MARMION:** The member has to remember that an alcohol intervention requirement is an option that is at the police discretion. If little Johnny has been running around and giving everyone a hard time, the police will just give him an infringement notice. If little Johnny is being a smart-arse, the copper will give him an infringement and fine him on the spot. The AIR is an option. Currently the police would have a little chat with him and tell him to go away or give him an infringement. This provision is the midway position. I get the member's point that he could get a notice from a different copper if six coppers were at the event. It is a possibility, but I think there would be ways and means of putting a lot of pressure on that person, and I think it would be a one-off situation.

**Clause put and passed.**

**Clauses 27 and 28 put and passed.**

**Title put and passed.**

Leave granted to proceed forthwith to third reading.

*Third Reading*

**MR W.R. MARMION (Nedlands — Minister for Finance)** [5.03 pm]: I move —

That the bill be now read a third time.

**MR M.P. MURRAY (Collie-Preston)** [5.04 pm]: I understand that time has marched on, a little like the Liquor Legislation Amendment Bill 2015 itself; it does not seem to have an end result. I really must say how disappointed I am about the requirements in the second half of the bill. That part of the bill is unfunded and not thought out. The drafting has been done but there is nothing underneath to support it. Although I thought that the passage of that half of the bill would be really good for dealing with the alcohol problem this coming summer, I now find that it is not funded. The bill is just an appalling sleight of hand by this government to show that it is doing something about the alcohol problem in juveniles in Western Australia. It is disgusting, to say the least. The minister should hang his head in shame! I do not blame the minister in this house who had charge of the bill; he had to pick up the mess of someone else in another house. As I said earlier, this bill was rushed into the house to cover up the government's not bringing in a bill to deal with secondary supply in schoolies week. The review of the Liquor Control Act started in 2012 and was tabled in 2013 or 2014. I have the dates written down somewhere but I will not search for them because of the time factor. I have to say that this is a political ploy on the part of the government so that it can say, "We've done it." We saw the previous press releases in which the government patted itself on the back for its intention to bring in legislation to deal with schoolies week. That was months and months ago, and it was not brought in until the last couple of weeks of Parliament. Any member of the public who understands a little about the political process would be disgusted—absolutely disgusted!

The minister said that he had had quite some hours of briefing, but that did not help him to explain the technical details in the bill. That is because they have not been done and were not in the bill! Fancy a minister in the other

house leaving a minister in this house in that position! If I had been in the cabinet room at the time, I would probably have had a few words about it. The minister in this house has been made to look very small today because of the shortcomings in the bill. It is disappointing to all of us. The intent of the bill is supported very strongly by this side of the house but, unfortunately, although the intent is quite good, it is just a worthless paper.

In saying that, I just cannot believe that the bill has been allowed to get this far. The government would have been far better off dropping half of it and bringing in—as we did in 2013—a bill to address the one issue that the government is trying to legislate for, and that is, secondary supply. I support that very strongly. As members know, the Labor Party brought such legislation into this place, which the government voted down. Now it brings back a heap of rubbish like this bill. I am disappointed, but I will support the bill because it deals with secondary supply.

**MS L.L. BAKER (Maylands)** [5.07 pm]: I will make a brief contribution in closing this debate on the third reading debate on the Liquor Legislation Amendment Bill 2015, although I think there are another one or two speakers. There are two issues that I believe are the most important to talk about. Firstly, it is a shame that we missed an opportunity to make a difference in the electorate of every member of this house—that is, an opportunity for communities to deal in a stronger way with the impact of destination liquor outlets. It is up to the government to respond to community and cultural shifts, rather than wait five, six or 10 years before we can change behaviour or change policy. It is simply up to us as lawmakers in this state to set an example and to keep up with community attitudes. We have missed the opportunity in this amendment bill to change the balance in the objects of the Liquor Control Act. We therefore have not done the director of Liquor Licensing much of a favour in that respect. We certainly have not helped the Liquor Commission's very difficult job of managing the process between a very diverse range of applicants for a liquor licence and an even more diverse range of opponents to the granting of a liquor licence. Whether we are talking about Coles or Woolworths, a small liquor store, a bar, a tavern, a cellar door or a collective cellar door, all those entities should be put into the context of their direct impact on the social fabric of the communities in which they are placed, and we have not in any way helped the director of Liquor Licensing with his work. That is a great sadness. If we look back at the submissions and at what was said, we will see that it was very clear in the review document that this should be looked at and that these changes should be made, but because the government is too chicken to take on some of these big, big traders and the big end of town, it has made a decision to not swing the balance away from commercial interests and towards the social wellbeing of our communities, and that will not be forgotten easily or quickly by our community.

The good issue, the fantastic amendments that this bill will bring to Western Australia and to parents and carers in every corner of the state, is the secondary supply laws, on which the community has done great work. At the very least, this is the opportunity to get some major changes in the way that parents and carers can impact on parties and the like—places where children might be exposed to alcohol when a parent or carer does not want that to happen. I am very pleased with that. Labor has always supported that and we are very pleased to see that the government, too, supports that and that we share that issue in common. Finally, I think alcohol interventions around juveniles are a positive step forward. It is far better to have an intervention than to put a child into the criminal justice system. There is absolutely no argument about that. I am very proud of that part of this bill as well.

Just before I sit down, I have to say that there was a missed opportunity. It is a shame that the minister did not have more courage on this bill but took the *Yes Minister* approach of refusing to actually bring some better balance into the objects in this bill.

**MRS M.H. ROBERTS (Midland)** [5.11 pm]: I want to make some very brief remarks at the third reading stage of the Liquor Legislation Amendment Bill 2015. This bill indicates what a lax approach to amending liquor laws this government has. We know that it is a year since the government provided its response to Parliament on the review of the Liquor Control Act 1988. In fact, the government's response to that review was tabled on 18 November 2014. I do not have the date that the actual review was given to government, but to the best of my knowledge that was the best part of a year before that. It has taken the government a couple of years since the review came down to provide a response. What we have seen in the form of this bill is a response that is far from comprehensive. That was acknowledged in the second reading speech, which states —

The Liquor Control Amendment Bill 2015 is the first stage of the government's commitment to implement the review committee's recommendations, which attracted considerable community interest.

The government acknowledged pretty much in the opening line of the second reading speech that this is not a comprehensive bill. It is inadequate and it certainly does not address all of the recommendations of the review. We have now been asked to rush this bill through Parliament today. I note for the record that the opposition has offered full cooperation on this bill. We have progressed this bill very quickly. The government has had it on for debate in the Assembly for effectively only two days. We did the second reading stage yesterday and now we have progressed the full consideration in detail and third reading stages today.

**Mr J.H.D. Day:** Can I just say that we appreciate that cooperation.



**Mrs M.H. ROBERTS:** I thank the Leader of the House. I do not think that any blame for that can be attributed to him. The government was tardy in bringing this legislation forward. I have listened in. I have certainly realised that it would be good to have this legislation operative and acted upon during schoolies week this year. I am beginning to doubt whether the government will be able to adequately do that even with the assistance the opposition has given today. I was concerned to learn that the regulations are not drafted yet. Keep in mind that this legislation has already been through the Legislative Council. If there is any doubt as to the outcome of legislation, it will be resolved by its passage through the Legislative Council. The minister responsible for this bill is a National Party minister and the bill has the full support of the coalition government. The coalition has the numbers by a very long way in this chamber, so there has never been any doubt as to whether this bill would pass through the Legislative Assembly. There has been nothing to stop the government from going ahead at full pace to get those regulations together. In fact, it could have provided them for our information had they been ready, but they are not ready; they are still to be developed.

The minister made the point that secondary supply laws do not require legislation, so that if the opposition were to support the legislation today and support its very prompt passage through the Parliament, the government would be able to ensure that royal assent is given to this bill ahead of schoolies week and that it will be able to fully implement the secondary supply aspects of this bill. I gathered that whilst I was out of the chamber we got the response that no real funding has been put in place for an education campaign. If that is so, that is just wrong. Clearly this is a significant change to the law and people need to be fully informed, not just so that people are not unfairly caught out by a new law, but, hopefully, the best outcome would be that we would prevent people from engaging in secondary supply to juveniles. If they know that that is the law, hopefully they will not do it and we will see less of it and the message will start getting out there. I do think this needs a comprehensive communications campaign. I hope that the government can get its act together and get that communications campaign in train posthaste.

This bill is passing with the opposition's support and cooperation. We have done our best to expedite its passage in the last two days—I have to say that that is no thanks to the government in being so tardy and no thanks to the government for having a bill that is far from comprehensive. I also note that the minister in this house who is responsible for liquor licensing, the Leader of the National Party, is not even present today. He was present yesterday and he gave a second reading response late last night. I am told that he is somewhere in the north of the state today. I note that ahead of this sitting fortnight there are two weeks that we are not sitting. I note that as of tomorrow, this house will not be sitting for more than two weeks. I am not sure what business it is that has taken the minister in this house who is responsible for liquor licensing away from the house today and why he cannot be here for the passage of legislation that belongs to a National Party member in the other house. If I were to learn that the travel was discretionary and was something that he could have done next week, the week after or three weeks ago, I would not think that was right; Parliament should take precedence. Despite the fact that the minister is not here and despite the shortcomings of the government, we support this legislation. We only hope that the government can deliver on its half of the bargain by achieving royal assent for this bill posthaste and by putting in place a substantial communications campaign.

**MS J.M. FREEMAN (Mirrabooka)** [5.18 pm]: I also wish to speak on the third reading of the Liquor Legislation Amendment Bill 2015. I agree with my colleagues that this bill, while supported, was really a missed opportunity to put in place some of the submissions and recommendations from the review. By not comprehensively bringing in some of those reforms that are well needed and have been discussed in this house, this bill is inadequate. That is not to suggest that the secondary supply laws or the regulations and legislation around supplying juveniles with alcohol on unlicensed premises are inadequate, because that is well and truly overdue and was brought into Parliament by the shadow Minister for Racing and Gaming, the member for Collie–Preston. The member for Collie–Preston should be commended for his actions in doing that, because it pressed this government into taking action. I have now passed that point in my child's life when I had to deal with the issue of secondary supply. However, it is a very vexed issue for a parent who is trying to guide their child through a culture that seems to be based around alcohol, and that should not be the case. Therefore, this amendment is a welcome addition, and certainly it will be well received in the community. This amendment is completely necessary before we enter into the leavers period, which is only a few weeks away. I have already been to two year-12 graduations—one last night at Mirrabooka Senior High School, which the Premier attended, and one last week. Can I say, though, that most of the students at those graduations will not be going to leavers. That is particularly because it is not a cultural thing for them to go to leavers, and further because it is not affordable for them to go to leavers, and lastly because most of them will have to go out and get work and seek the next opportunities that will come into their lives.

There is an idea in our community that we have an Australian culture of alcohol, and we have to comply with that and adopt and accept it. I think that is completely wrong. It really concerned me when the Australian Hotels Association, in an article in the January 2015 issue of its *Hospitality WA* magazine, basically said that it was successful in defeating a proposal to make harm minimisation the primary object of the act. How could the

Australian Hotels Association be proud of that? “Hospitality” does not mean “alcohol”. Hospitality means welcoming people into our community. We in this place should not be enabling an organisation that decides that it is going to capture a word to make it seem as though it is something that it is not, and as though people who do not have alcohol are not providing hospitality and are not being inclusive. By making this legislation be lesser than it could have been, not achieve the objectives that it could have achieved, and not reach the potential that it was capable of reaching, we are enabling very poor practices in our community, and we are justifying people in an industry claiming a word that is not theirs and saying that is hospitality. They can call their magazine *Hospitality WA*. However, hospitality does not mean alcohol.

I can tell members that that is the case, because I am absolutely honoured to represent a community in which hospitality is extended to me very regularly, without alcohol. It is not just the Muslim community that does that. Only last Saturday night, I went with the Gujarati community of Western Australia to the Navratri celebrations. Navratri celebrates the goddess who drove evil out of parts of India. That is a celebration of dance—people go around and around in circles and dance for hours. It is a celebration of joy, of community and of getting together. There is no alcohol. It is complete hospitality. It is about harm minimisation, which is what we should be doing. The Gujarati community brings in its young people and shows them that as a rite of passage in their heritage, they can dance and enjoy and contribute and participate without alcohol. That is not my heritage, I must admit. I am a seventh-generation West Australian. Every five years my family has a reunion in Toodyay, at which 800-odd people turn up. On the Saturday night, we have a concert, and a lot of alcohol is imbibed. I do not think that is necessarily good, and the next day when a bunch of the young men try to do the “Ferguson Mile”, they have to run off into the bushes to relieve themselves of what they had imbibed the night before. It is not a healthy culture and it certainly is not a culture of harm minimisation. I do not want to be seen as a wouser, but, wow, did the government miss out on an opportunity! The government could have had a bill that is not just tinkering around the edges, that makes alcohol sort of okay, and appeases a few groups, but is an opportunity, as the member for Maylands put so well, to change the objectives of the act with a view to social wellbeing. The government could have had a bill that is not just based on regulating an industry that, frankly, is a bit out of control. When the tobacco industry got out of control, everyone in this house had the courage to take it on. But we are just not ready yet to take on that next thing, are we?

I walked around Fiona Stanley Hospital two weekends ago. We were taken there on a tour as part of the Education and Health Standing Committee, and it was a great privilege. One of the leading physicians at Fiona Stanley, who has had leading roles as a doctor in this state, said that he thinks that the major health issue in our community at the moment is alcohol. That was not prompted. We were talking about other things at Fiona Stanley. He basically said that until we—meaning we as politicians and leaders in the community—take on this issue of alcohol and how it is used, and abused, in our community, we are letting down the health of the community.

The alcohol intervention programs that are proposed in this bill are great. They should be funded, minister; they need to be funded. However, they should not be just for juveniles. I do not know whether the government has ever tried to find a way to do some work around drinking and alcohol intervention such as we have in the Quit program for smoking. There really is not anything of a similar nature in Western Australia for alcohol. I find that amazing. There are none of those programs, if we want to google them and find out. There is FebFast and those sorts of things, but there is nothing that the government is engaged in, as it was with the major health issue that was smoking.

I support this piece of legislation fully, because it addresses the issue of secondary supply of alcohol to juveniles. I was telling someone today that I actually told my son that if he went to a party, the parents had to have my permission if they wanted to serve him alcohol, and they did not have my permission, so he could not drink when he was underage. It is a bit like the member for Collie–Preston finding out all these years later that they could never have confiscated all that alcohol. It is amazing what we can get away with if we bluff! I am very pleased to be able to say to my son now, “See, I was right.” I also think it is extremely good that we will have intervention programs, because we need to help people to understand from a young age how to drink responsibly, or how not to drink at all and finding out that there is much enjoyment and much experience to be had in this world without alcohol, and that to extend hospitality does not mean that we need alcohol—absolutely not. I support this bill, and I support its intent but I am disappointed that the bill falls short of what should have been achieved. Thank you.

**MR W.R. MARMION (Nedlands — Minister for Finance)** [5.29 pm] — in reply: I will briefly close the debate on the Liquor Legislation Amendment Bill 2015 by thanking members opposite for their cooperation and for their contributions during the consideration in detail stage, which was quite good fun; I learnt a lot. I am talking on behalf of the minister in this house who represents the Minister for Racing and Gaming in the other house, who unfortunately could not be here today. I appreciate everyone’s support.

As a parent, one of the really good things that will result from this bill straightaway is the secondary supply law. Like the member for Mirrabooka, I, as the parent of five children, find it disturbing when my child goes to

another place and I know there is a parent there and I know the address and I think I have done all the right things, but then I find out when I pick them up that alcohol has been provided at the premises. That is most disturbing. This bill will make that an offence. I think it is one of the most important things that have been done with alcohol laws this year, if not for many years. I understand that this is something for which the member for Collie–Preston has had a passion for a long time, so I commend him for that.

I think the other parts of the bill relating to the supply from vineyards and breweries will be useful from a tourism point of view. The alcohol intervention strategies also will be a very important tool for police to use rather than issuing an infringement or letting people go.

I thank everyone for their cooperation. Hopefully, we can fast-track this bill. There will have to be a communication strategy around the secondary supply provisions, and that has been allowed for. I commend the bill to the house.

Question put and passed.

Bill read a third time and passed.