

Mr Terry Waldron; Mr Mark McGowan; Mr Mick Murray; Ms Margaret Quirk; Dr Janet Woollard; Acting Speaker; Mr Ben Wyatt; Mr Bill Johnston; Mr Peter Watson; Mr John Hyde; Speaker

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**LIQUOR CONTROL AMENDMENT BILL 2010**

*Consideration in Detail*

Resumed from 14 October.

**Clause 30: Sections 115AA to 115AE inserted —**

Debate was adjourned after the following amendment had been moved by Mr T.K. Waldron —

Page 30, line 20 — To delete “those” and substitute —  
licensed

**Mr T.K. WALDRON:** There are a number of amendments to clause 30. Last week when we started on this amendment, I think we agreed on the advice of the Acting Speaker. I would therefore like to move the amendments under clause 30 en bloc and then we can through the amendments and any member can speak on any of the amendments in clause 30.

**The SPEAKER:** The best advice I have, which is always provided in this place, is that the minister will need to move the deletion and then we can consider the rest of clause 30 en bloc.

**Mr M. McGOWAN:** Mr Speaker, just for clarification on clause 30. As I understand it, we are going to deal with each amendment in turn. Is that correct?

**Mr T.K. WALDRON:** It is up to you. I will move en bloc and we can go through them one by one.

**Mr M. McGOWAN:** The minister can move en bloc and then we will just go through them one by one while they are being dealt with en bloc. Is this clause to remove the word “quarrelsome”?

**The SPEAKER:** No. Just repeating myself, it is —

Page 30, line 20 — To delete “those” and substitute —  
licensed

Just for the member’s clarification, this question is already before the house, so we do need to deal with it before we can deal with the rest of the amendments en bloc.

**Amendment put and passed.**

**The SPEAKER:** Minister, this is your opportunity.

**Mr T.K. WALDRON:** I seek leave to move the amendments standing in my name on clause 30 en bloc.

Leave granted for amendments to be considered en bloc.

**Mr T.K. WALDRON:** I move —

Page 30, line 21 — To delete “violent, quarrelsome” and substitute —  
violent

Page 31, line 7 — To delete “A” and substitute —  
Except as provided in subsection (7A), a

Page 31, after line 9 — To insert —

(7A) A person does not commit an offence under subsection (6) if the person enters the premises solely for the purpose of performing duties relating to the person’s work.

Page 32, after line 2 — To insert —

(1A) In this section —

**secure webpage** means a page on a website that is accessible only by —

- (a) the licensee or occupier of licensed premises; or
- (b) a manager of licensed premises; or
- (c) a prescribed person or class of persons or a person in a prescribed circumstance.

Page 32, line 3 — To delete “website” and substitute —  
secure webpage

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Page 32, line 16 — To delete the line.

Page 32, lines 19 and 20 — To delete the lines and substitute —

- (3) Except as provided in subsection (4), a person who discloses something that has been published under subsection (1) commits an offence.

Penalty: a fine of \$10 000.

- (4) A licensee or manager of licensed premises does not commit an offence under subsection (3) if —

- (a) he or she discloses information published under subsection (1) to a responsible person in relation to those premises; and

- (b) the disclosure is made for the purposes of enabling the responsible person to perform duties relating to the person's work on the licensed premises.

Page 32, line 28 — To delete “3 months” and substitute —

one month

Page 33, lines 6 and 7 — To delete “3 months or more” and substitute —

more than one month

**The SPEAKER:** Just for your advice, member for Collie–Preston, you might be able to give some assistance here. There is an amendment in your name on page 32, lines 3 and 11. Those amendments are in your name, member. That will stop us from going through all of these amendments en bloc.

**Mr M.P. MURRAY:** I am not sure that we are talking about the same one, because we moved one previously and the minister has now agreed, but the other one also is about the Economics and Industry Standing Committee. Is it not that one?

**The SPEAKER:** No, it is on page 32, line 3, where you are moving to insert words, member for Collie–Preston.

**Mr M.P. MURRAY:** We have now agreed with the minister and we will withdraw our amendment.

**The SPEAKER:** Similarly, if I might, member for Collie–Preston, on the same page at line 11 you have an amendment to insert words. Are you also withdrawing that?

**Mr M.P. MURRAY:** Again, due to a few talks that we have had and an agreement that has been reached, we will also withdraw that amendment.

**The SPEAKER:** I must persist; there is another one on page 32 in your name also, member for Collie–Preston. I just need to make sure that these things are crystal clear. It is after the line 18 on page 32 an insertion and then page 32, lines 19 and 20 to be deleted. They are in your name, member for Collie–Preston.

**Mr M.P. MURRAY:** Is that the amendment with the fine of \$10 000?

**The SPEAKER:** Yes. Likewise, are you in agreement on the amendment to delete lines 19 and 20 on page 32?

**Mr M.P. MURRAY:** Again, on the amendments that have been put forward, due to conciliation and many talks, we have come to an agreement, for which I thank the minister, that I will now not move the amendments.

**The SPEAKER:** I appreciate the member's cooperation.

**Mr T.K. WALDRON:** I thank the member for Collie–Preston for agreeing not to move those amendments because we have covered them with another amendment, and I will get to that. The next amendment to clause 30 is to delete the words “violent, quarrelsome” and substitute “violent”. This amendment will simply take out the word “quarrelsome”. That word has been removed from the barring notice provisions. It was felt that the mere act of being quarrelsome or argumentative should not be enough to result in a person being barred. Therefore, on agreement once again with the member for Collie–Preston, I have moved the amendment to remove the word “quarrelsome”.

**Ms M.M. QUIRK:** I understand that the minister is seeking to remove the words “quarrelsome” and “disorderly” in proposed section 115AA(2)(a), which contains the words “violent, quarrelsome or disorderly”.

**Mr T.K. WALDRON:** No, just the word “quarrelsome”.

**Ms M.M. QUIRK:** But not the word “disorderly”, so the provision will refer to “violent or disorderly”.

**Mr T.K. WALDRON:** Yes.

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**Ms M.M. QUIRK:** Paragraph (b) refers to “engaged in indecent behaviour” and paragraph (c) refers to “contravened a provision of any written law”. The minister is saying that people do not need to have broken the law to be the subject of a barring notice. Is that correct?

**Mr T.K. WALDRON:** No, not necessarily, because, as I understand it, disorderly conduct is an offence under the Criminal Code.

**Ms M.M. QUIRK:** Presumably, variations of violence would also be offences. Why are all those paragraphs necessary, given that paragraph (c) says “contravened a provision of any written law”?

**Mr T.K. WALDRON:** I thank the member for that question. The member will remember what the barring notice is about. Although people may fall under the provisions of the Criminal Code, they may not be charged. With barring notices, people do not get a criminal record, but they can receive a barring notice under the third paragraph, which provides that if a person contravenes a provision of any written law, that person can get a barring notice. As I mentioned before, a young fellow might make a mistake but the police might not think it requires them to take full action and they might just give him a warning and take him out of that situation for two weeks, six months or whatever time the commissioner decides. That is the reason that that provision is there.

**Ms M.M. QUIRK:** Would it not be true to say that the violent or disorderly conduct could be an offence, even though the police do not proceed with it? It comes within the ambit of the Criminal Code. Similarly, what does the minister contemplate that indecent behaviour entails?

**Mr T.K. WALDRON:** Obviously, before a person gets a criminal record, the person has to be charged and taken before a court. The whole intention of this legislation is to try to stop people —

**Ms M.M. QUIRK:** But, minister, it does not say “convicted” of an offence; it says “contravened”. I take it that that is something short of being convicted or even charged.

**Mr T.K. WALDRON:** But the person still has to go before a court before that person has actually contravened the law.

**Ms M.M. QUIRK:** Not necessarily. A person can break a law without being convicted of it or even being charged.

**Mr T.K. WALDRON:** As I understand it, a person has to be convicted before that person has contravened the law. The member will remember the second reading speech. This legislation seeks to give protection to the general public from people who have engaged in disorderly or offensive behaviour, who threaten people et cetera and who put people in dangerous situations. The whole idea of this legislation is to protect the general public, the licensee, which is pretty important, and also the person. That is the aim of this legislation, and I keep getting back to that.

**Ms M.M. QUIRK:** I am sorry, minister; I am getting more and more troubled by this. The minister is saying that, on the one hand, people need to have been convicted, and that is in paragraph (c) and —

**Mr T.K. WALDRON:** No, a person does not have to be convicted. The commissioner has to believe on reasonable grounds that the person has done any of those three things. It gives an option.

**Ms M.M. QUIRK:** The minister is telling me that paragraph (c) actually provides for a conviction. It begs the question: why did the draftsmen not refer to conviction if that is what was meant?

**Mr M. McGowan:** No; he is saying “may be convicted”. It is one or the other.

**Ms M.M. QUIRK:** Thanks very much, ex-minister, but I am actually asking the current minister.

**Mr M. McGowan:** And he doesn’t know.

**Ms M.M. QUIRK:** That is why I am proceeding with this.

**Mr T.K. WALDRON:** I think it is quite plain, frankly. I am not a lawyer, but to me it is quite plain.

**Ms M.M. QUIRK:** The reason I am trying to clear that up for the benefit of the minister and the member for Rockingham is that clearly the provision in paragraph (a) is something short of what a person may be convicted of. If the minister is not saying that the person must have breached the Criminal Code, but it is something short of that, I want to know how that will be judged and assessed. I would also like to know what the minister means by “indecent behaviour” in paragraph (b).

**Mr T.K. WALDRON:** This is about giving the police an option. If someone breaks the law, the police have the option to charge that person and take the person before a court. In some cases the police might do that.

**Ms M.M. QUIRK:** That is in paragraph (c), isn’t it?

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**Mr T.K. WALDRON:** This provision will give the police the option of either doing that if they wish to or asking the commissioner to issue a barring notice. If young people make a mistake, and it is a bad mistake, they should be charged et cetera. However, on some occasions, people affected by alcohol can mess up one night and go a bit too far. The idea of this legislation is to stop them getting to the stage at which they are charged with an offence. The police can do either. This will give them a choice.

**Ms M.M. Quirk:** But it does not say anywhere that that precludes the police from charging, for example. You are implying that it is one or the other, but in fact it could be both.

**Mr T.K. WALDRON:** It will give them the option; it will not preclude them. This will give the police the option of issuing a barring notice. If someone commits an offence et cetera, that person can be charged.

**Ms M.M. QUIRK:** If the person is violent or disorderly but is not charged by the police, does the minister envisage that that behaviour is consistent with what would be found to be an offence under the Criminal Code, or can it be some lesser conduct? That is what I am asking. I am still asking: what does indecent behaviour for the purpose of proposed subsection (2)(b) mean?

**Mr T.K. WALDRON:** At the end of the day, the police have discretion to choose whether to apply for a barring notice or, if it is an offence, to charge the person, or it is at the discretion of the commissioner when he looks at the barring notice. Indecent behaviour can mean many things. It can mean a person exposing himself, urinating or any of those types of things.

**Dr J.M. WOOLLARD:** The member for Girrawheen is repeatedly talking about criminal offences. This provision has nothing to do with criminal offences.

**Ms M.M. Quirk:** I'm sorry; I must have got my LLB in a Weeties box!

**Dr J.M. WOOLLARD:** Member for Girrawheen, to me, and I could be wrong, this is about —  
Several members interjected.

**The SPEAKER:** Thank you, members!

**Ms M.M. Quirk** interjected.

**The SPEAKER:** Take a seat, member for Alfred Cove.

**Mr J.R. Quigley** interjected.

**The SPEAKER:** Member for Mindarie, if you want to speak, speak from your seat. Members, I have given the call to the member for Alfred Cove. I do not need to hear from anybody else.

**Dr J.M. WOOLLARD:** This is about the Commissioner of Police taking the privilege away from people who currently have the privilege of going into licensed premises to drink alcohol because they have been abusing that privilege by their behaviour. According to what is described in this section, that is because they have been violent or they have been disorderly, or they have engaged in indecent behaviour or contravened a provision of any written law. They have not engaged in a criminal offence but they have been violent. They have done something —

**Ms M.M. Quirk:** How can a person be violent and not commit a criminal offence?

**Dr J.M. WOOLLARD:** The member for Southern River, the member for Albany and I went to Northbridge with the police last Friday night from 11.00 pm to 2.30 am. I think all members of this Parliament should go out with the police on a Friday or Saturday night.

**Mr M.P. Murray:** We don't advertise—I have been there!

**Dr J.M. WOOLLARD:** Members opposite are asking what is “engaged in indecent behaviour” —

**Mr M.P. Murray:** You're full of it!

**The SPEAKER:** Member for Collie–Preston, I formally call you for the first time. Everybody in this place is entitled to ask the minister a question.

**Dr J.M. WOOLLARD:** If members want to know what is “engaged in indecent behaviour”, they can go for a walk with the police around Northbridge to see what “engaged in indecent behaviour” is. We saw it. We saw people walking along the road urinating against fences —

*Point of Order*

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**Mr M.P. MURRAY:** I have noticed that the clocks are not quite synchronised. I would hate to think that being here after 8.30 pm has upset the member for Alfred Cove's mental capacity! I am a bit concerned that we have not got the clocks synchronised.

**The ACTING SPEAKER (Ms L.L. Baker):** There is no point of order.

*Debate Resumed*

**Dr J.M. WOOLLARD:** When is the member for Collie–Preston going to walk around Northbridge with the police? He might actually do something then about the level of alcohol abuse in the community!

**Ms M.M. Quirk:** He has done it. We've got one saint in Australia; that's all we need!

**Dr J.M. WOOLLARD:** He might then not need to ask what is indecent behaviour.

**Mr D.A. Templeman:** This is indecent behaviour!

**The ACTING SPEAKER:** The member for Alfred Cove, please.

**Dr J.M. WOOLLARD:** Minister, I think this is a very good provision in this bill. I think it is a shame that this type of clause was not inserted into this legislation a long time ago. It may have gone a long way towards dealing with some of the problems that we have in Northbridge at the moment. I encourage all members of this house, on both sides, to go out with the police in Northbridge on a Friday and Saturday night and then maybe, instead of this legislation coming back every three or four years, it might come back every year. We might really do something to try to fix the problems we have in the community in relation to the abuse of alcohol.

**Mr M.P. MURRAY:** I am of the same opinion. I want to clarify that a person can have a barring order against him at the same time as he has been booked for violent or disorderly conduct. A person can have both at the same time; is that the case?

While on my feet, the member for Alfred Cove made strong comments as though she is the only one who has been to Northbridge at night. I have been over there, but I did not take an entourage with me. I had a few beers, listened and looked around. I have certainly done that. In fact, I was highly embarrassed when I was coming home and the police pulled me up. After being frisked and put up against the wall, I found out it was one of the ex-footballers who I used to coach some years ago! What was said to me was, "What are you doing out at this time, you silly old bugger!" I have been over there. I do have concerns, but we have to get this right. That is what I think most people in this chamber want to do, without penalising one group ahead of another. That is why the questions are being asked of the minister—not to be smart, not to be pushing a barrow, but to make sure we get it right.

**Mr M. McGOWAN:** This is the clause we were dealing with last week. I have some difficulty with some aspects of it. I want to ask the minister a couple of questions. The use of the word "disorderly"—last week the minister clarified that the word "disorderly", according to a 1911 definition —

**Mr T.K. Waldron:** It was 1913.

**Mr M. McGOWAN:** Sorry, a 1913 definition. "Disorderly" can include insulting language. If someone is guilty of using insulting language, a barring notice can be issued against that person by an inspector of police. I put it to the minister that of course in hotels, bars, restaurants and so forth insulting language is commonplace. Perhaps it is a bit like the Parliament; it is commonplace in this place as well. We have not had a barring notice installed in here as yet under this government. The way the government is going we might end up in that frame of mind. My question is twofold. The Commissioner of Police may issue a person a barring notice—the minister said that power can be delegated to the inspector—if that person has been violent or disorderly, engaged in indecent behaviour or contravened a provision of any written law. To clarify, so that members understand, that is not conviction based. It does not say on what level of evidence; it is just on reasonable grounds. It also does not say if there is any appeal mechanism. I will be interested to understand what the appeal mechanism might be. If a police inspector believes that a person used insulting language, a barring notice can be issued against that person. I want the minister to put on the record that that is correct.

The second point I want to make is that members will have seen footage on the weekend of a fight in Northbridge. Some young blokes were having a fight in Northbridge at 1.30 in the morning. It was bad footage. It does not look good, young men fighting, but it has been going on for time immemorial. Late at night, young men who have drunk too much have fights. But now, with the prevalence of CCTV cameras and so forth, it is much more commonplace than it is portrayed in the media. I read in the press that the Premier said these laws passing through the Parliament now will mean that if young men engage in that behaviour, they will be able to be stamped on. As I read this provision, it says that if a person engages in violent behaviour, it has to be on a specified class of licensed premises. These young men engaged in this fight were on the street; they were not

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engaging in this fight on licensed premises. Accordingly, the laws that the Premier said would deal with them, laws which are passing through the Parliament now, by definition of this provision cannot deal with them. My two questions are: first, can the minister clarify that the barring order is not based upon conviction but based upon the perception of an inspector of police; and, second, would those young men have been dealt with by these laws, as the Premier said, if these laws were in place, considering their violent behaviour was on the street and not on licensed premises?

**Mr T.K. WALDRON:** First of all, being violent and disorderly is an offence under the Criminal Code. Second, the member for Rockingham is right: a barring notice can be applied only to the premises from which a person is barred, not the street. A barred person can appeal to the Liquor Commission after one month. The person can be barred for a month without appeal and after one month he has the right of appeal.

**Mr M.P. MURRAY:** If someone who has been barred from a premises comes into the Northbridge precinct, is he still allowed to hang around outside?

**Mr T.K. WALDRON:** That is correct. When a person is barred he is barred from one hotel, a type of premises or all premises. He is barred from only the premises. If the police have a concern about someone who is outside, they can issue a move-on notice. I keep coming back to this. One of the reasons I like the barring notices is because they do not incur a criminal record. As I said last week, issuing someone with a barring notice is like giving a footballer a bit of time on the bench to cool down. This is about protecting the public and the licensee, and about giving the person a warning to stop him reaching the stage at which he might glass someone and then be in serious trouble. That is the aim of it. The person might be barred from one hotel for two weeks. At the moment a publican can bar someone for only 24 hours. After 24 hours, the person can go back onto the premises. This will extend that barring to give them that support and try to protect the public. One of the things that drove me to bring in this amendment was seeing young kids who had made a mistake and got into a fair bit of trouble ending up with a criminal record. They may not be bad kids but have made a mistake on one particular night. This is to try to give that intermediary. I use the example of Barry Hall on the footy field. If a footy coach—the member for Collie–Preston knows this—sees someone who is a bit volatile and losing it and could cause some damage, he would get the person off the field and sit him on the bench. That is what I have based these barring notices on. I think they will be a very useful tool.

**Mr M. McGOWAN:** The minister did not answer my question. If I am in Northbridge, Rockingham or Wagin and am having a fight on the street, which would be deemed to be violent behaviour, can a barring notice be issued against me, as the Premier indicated?

**Mr T.K. Waldron:** No.

**Mr M. McGOWAN:** So the Premier was wrong?

**Mr T.K. Waldron:** I did not hear what the Premier said or in what context he said it. The behaviour must happen in a hotel. There are other provisions such as prohibitive behaviour orders, assault et cetera.

**Mr M. McGOWAN:** The Premier said, “These laws need to be passed by the Parliament so that issues such as those young men on the street can be dealt with.” However, the provision that, naturally, is the one that people will go to, a barring notice, will not deal with the situation the Premier referred to. That is obvious. The Premier used that footage to make a political point even though it was completely inaccurate.

**Mr T.K. Waldron:** Not really; they could be charged under the prohibitive behaviour order legislation.

**Mr M. McGOWAN:** That is not this legislation.

**Mr T.K. Waldron:** No; I do not know whether he was referring to this legislation.

**Mr M. McGOWAN:** He said, “These laws need to go through to deal with that situation.” And that was wrong.

**Mr P.B. Watson** interjected.

**The ACTING SPEAKER (Ms L.L. Baker):** Member for Albany.

**Mr M. McGOWAN:** That is obviously wrong. Obviously the Premier will use any tool. Personally, I find the regular denigration of Northbridge offensive. It is a major entertainment area of our state. We keep asking why we have had disastrous drops in the number of tourists. When the Premier denigrates our principal entertainment area, that is a bit of a problem.

**Mr T.K. Waldron:** I tend to agree. This legislation is about targeting the troublemakers, not everyone else who goes there, to make sure it is a nice place to go to. That is the very reason for putting in these barring notices.

**Mr M. McGOWAN:** I think it is overly denigrated and the minister’s government has contributed to that. I want to make one other point to clarify that the Premier’s read on this legislation was incorrect. I want to raise the

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point about “disorderly”. The minister has deleted “quarrelsome” because he said it is perhaps a bit beyond the pale that someone should be barred from a licensed premises for being quarrelsome. I can perhaps see his argument in the case of someone who is violent or someone who is engaged in indecent behaviour. I would have thought “violent and indecent behaviour” would be sufficient. Someone who is disorderly or has contravened a provision of a written law might be going a bit far. The minister gave an example of barring someone to stop him from glassing someone. How does he make the link between someone using a bit of insulting language and next week suddenly going and glassing someone? I have used insulting language, but I have never glassed anyone. I do not think the fact that I have used insulting language indicates someone having a predisposition to glassing. I would have thought the minister could justify barring for violent and for indecent behaviour. I do not seriously think—I do not think the minister believes it—that the minister can justify barring someone for being disorderly and I do not think he can justify contravening a provision of any written law whatsoever in this state. I could be sitting in a pub contravening the tax laws of Australia and be barred from that pub. I could be contravening any written law —

**Mr P. Papalia:** The Dog Act.

**Mr M. McGOWAN:** — such as the Dog Act. I will leave it to my more learned colleague the member for Mindarie; I am sure he can find some unusual written laws that we could contravene! It seems to me to be an over-the-top provision. I do not imagine the minister will stand and agree with me, but I know he does secretly.

**Mr T.K. WALDRON:** I think I have explained this enough. “Quarrelsome” is not an offence under the Criminal Code—“disorderly” is.

**Dr J.M. WOOLLARD:** Will the minister agree that if a large number of people are prohibited from entering a specified class of licensed premises in the Northbridge area, the Northbridge area will probably be a lot safer for other users within that area?

**Mr T.K. WALDRON:** That is what we are trying to do with this bill. As I have said all along, we are trying to protect the public and the licensees and the young people offending by trying to stop them from getting themselves into further trouble. I think I have clarified this more than enough.

**Ms M.M. QUIRK:** I know the minister is impatient but we need clarification of this. I do not want to labour the point, but I still do not understand it. I need clarification from the minister on clause 30. I now understand that a person does not need a conviction to activate the barring notice, but I want to ask the minister: does a person not need to be convicted if the offence is violent or disorderly or of indecent behaviour in nature? Those three offences of that nature do not require a conviction. Would the minister say that anything else that did not fall into that category did require formal conviction under proposed section 115AA(2)(c)?

**Mr T.K. Waldron:** Correct.

**Ms M.M. QUIRK:** Good. The next question refers to a specified licensed premises. A person may, for example, be barred from going to a hotel.

**Mr T.K. Waldron:** It could be one hotel, it could be a group of hotels in the area, or it could be all hotels.

**Ms M.M. QUIRK:** I take it that if a person is barred due to conduct that occurred in Northbridge, that would not necessarily preclude the person from going to a licensed restaurant in Kununurra; it is only all hotels, presumably —

**Mr T.K. Waldron:** No. The whole ethos behind barring notices is to give offenders time out. It is up to what the police want to bar someone for.

**Ms M.M. QUIRK:** I am almost finished so the minister is in the home stretch. Proposed section 115AA(2) refers to “on reasonable grounds”. The commissioner or his delegate needs to be satisfied the person has been violent, disorderly or engaged in indecent behaviour. Is that something lower than beyond the balance of probabilities? At what level does the person making the order need to be satisfied? I do not understand what the standard of proof is.

**Mr T.K. WALDRON:** I am advised that it would be on the balance of probability. The commissioner would have the final say in that decision.

**Ms M.M. QUIRK:** I have one final question. What evidence would the minister contemplate that the commissioner, or his delegate, would have before him in making that decision?

**Mr T.K. WALDRON:** The normal evidence that an officer would supply when a person has committed an offence is what would need to be provided when recommending a barring notice. If the police or the licensee requests—because a licensee can request—they would need to show the evidence, and if the police

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commissioner or the inspector were not satisfied, a barring notice would not be placed. Of course, if the barring notice was for more than one month, it would be appealable.

**Ms M.M. QUIRK:** The minister has heard reference to the alcohol incident report forms that the police fill out. In accordance with what the member for Rockingham has said, they might fill out a form saying that the last place that the person was drinking at was the Brass Monkey, when in fact the incident occurred on the street. What was in that report could not form the basis of a barring order, because it was outside the curtilage of the premises.

**Mr T.K. WALDRON:** The police do not use that method of collecting information anymore. It could be CCTV footage. It could be that the licensee has made a statement to the police. It could be that the incident has been placed on the incident register. It could be that the police have been called and actually saw the behaviour.

**Mr B.S. WYATT:** Just to follow on from the questions from the member for Girrawheen, the minister has said that the licensee may see the behaviour and make a statement to the police. I assume that will be some form of official statement. I am curious about the scenario for disorderly or violent behaviour. That is likely to be a situation in which a bouncer or security officer, or however we want to refer to them, is involved. A couple of coppers may be walking past a pub. There has been an incident, and the incident is now over, but the bouncer comes out and says to the police, "That fellow over there has been disorderly; we want him barred." Would that be sufficient evidence for the commissioner, or whoever is the delegating authority, to form a belief on reasonable grounds?

**Mr T.K. WALDRON:** I think in everyday policing, if there is to be a barring notice, the police will need to ascertain whether they have sufficient evidence to succeed. They would put up the evidence, and the police commissioner would make the decision based on the evidence produced. If the evidence was not sufficient, the police commissioner would not issue the barring notice. If there was CCTV, he would see that.

**Mr B.S. Wyatt:** I assume that if there was CCTV, that would form compelling evidence. However, could hearsay, for example, form part of the police commissioner forming, on reasonable grounds, that belief?

**Mr T.K. WALDRON:** Yes. I think in all honesty that the police would need to be satisfied that they had enough evidence so that the police commissioner would believe that it warranted a barring notice. They would also need to ensure that if the person who was given the barring notice were to appeal, it would stand up to an appeal.

**Mr J.R. Quigley:** Or an inspector, which is way down from the commissioner.

**Mr T.K. WALDRON:** Okay.

**Mr J.R. QUIGLEY:** I refer to proposed section 115AA(2)(c) and the words "contravened a provision of any written law". What we are driving at here is barring people who are behaving in an antisocial way, such as by threatening people. Would that be a fair comment?

**Mr T.K. Waldron:** It is if they contravene a provision of any written law.

**Mr J.R. QUIGLEY:** We are not talking about a planning law. A person is on the premises, and the barman overhears him talking about insider trading, or building a house contrary to the —

**Mr T.K. Waldron:** This is getting a bit ridiculous.

**Mr J.R. QUIGLEY:** No. It says, "any written law". What the government is doing here is seeking to strike out those people who are committing antisocial-type offences on licensed premises. Would that be a fair comment?

**Mr T.K. Waldron:** It could be that the person has stolen a handbag in a hotel, or something like that.

**Mr J.R. QUIGLEY:** Damage to property, stealing and all of that.

**Mr T.K. Waldron:** Yes.

**Mr J.R. QUIGLEY:** So this is striking at antisocial behaviour by patrons on licensed premises. Would that be a fair comment?

**Mr T.K. Waldron:** Yes.

**Mr M.P. MURRAY:** I am indebted to my learned friend, who has given me some very wise advice, I believe, and maybe something that the minister could live with. The member for Mindarie has been very good to me, I might say. It is the definition of "anti-social behaviour" in the Prohibited Behaviour Orders Bill. The definition states —

*anti-social behaviour*, by a person, means behaviour that causes or is likely to cause —



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- (a) harassment, alarm, distress, fear or intimidation to one or more persons; or
- (b) damage to property;

That is a very wise move. That would suggest that the minister think about an amendment that would fit in there. All the lobbying that I have had from the hotel industry is that it wants to get some control back into their hotels and clubs. This probably fits in very tightly with what the minister is trying to do. I will listen to the minister's response before I move the amendment.

**Mr T.K. WALDRON:** I think that we need to be very careful that we do not over-prescribe this. That is why I have tried to keep it open. We need to remember that the whole aim of this barring, as I have said a hundred times, is to give people who offend another chance, but at the same time protect the public and the licensee. I think the wording here is fine. We talked about and agreed on "quarrelsome". I do not see any problems with it. I think we have covered it enough.

**Mr W.J. JOHNSTON:** I have only two questions to ask on these matters. I will put a bit of context around my first question. Once upon a time I was a regular in Northbridge. I am a certain age; I do not go there very much anymore.

**Mr T.K. Waldron:** This is not just about Northbridge, though.

**Mr W.J. JOHNSTON:** No, but I am just making a point here. Recently, I did go to Northbridge. I went to a particular function at the Aberdeen. A businessman was launching his business and invited me along. When I went to go in, I was asked for a scan of my driver's licence. I thought they were trying to identify that I was the person, so I let them scan my licence, but I put my glasses frame over my driver's licence number because I did not want the hotel to get confidential information that it could use for another purpose. But they said, "No, that is what we want. We want your driver's licence number."

**Mr T.K. Waldron:** Does this relate to this clause?

**Mr W.J. JOHNSTON:** No, but I will explain why this is important. I refused, and I ended up having a conversation with the manager, and he let me in anyway. He also said that I should make sure I did not tell anybody; but I will leave that aside. The point I make is that the pubs are asking people for these items—they have apparently actually scanned my daughter's passport—when they go into the pubs, as a method of identifying them. Is that for the purpose of these matters, because otherwise how are the pubs going to identify a person who has a barring notice? What mechanism will be used so that the publican knows that Bill Johnston is barred? That is my first question.

**Mr T.K. Waldron:** We are getting onto something —

**Mr W.J. JOHNSTON:** No. It is absolutely fundamental. There are 1.5 million or 2.5 million people in WA. How does a publican know that a person has a barring notice? How does a publican know that William Joseph Johnston of this address is the person who has a barring notice against him? The problem at the moment is that I do not think a pub has any legal authority to ask people to scan their identification. They told me they are doing it because the police have asked them to. The privacy act prevents them from collecting information for a secondary purpose; they can only do it for a primary purpose. I actually think the arrangement that is being used by the police in Northbridge at the moment is probably completely illegal, and how will that be resolved? That is the first question. This is unrelated, but my second question is: what is the process to ensure that natural justice for the Commissioner of Police —

**Mr T.K. Waldron:** Member, you are not talking about this amendment.

**Mr W.J. JOHNSTON:** No, no, no; there is no point. Listen. I am sorry; there are two important questions.

**Mr T.K. Waldron:** You're not talking about this amendment.

**Mr W.J. JOHNSTON:** Can I make a suggestion that the minister does not listen to the Leader of the House; he does not know what he is doing.

**Mr T.K. Waldron:** No, no, no!

**Mr W.J. JOHNSTON:** Do not listen to his suggestions; they are stupid. Let me get on and ask the minister the second question, which is: when the inspector or whoever or the police officer is making the decision, what system of natural justice will apply to them? This relates to the question asked of the minister by the member for Victoria Park. If somebody says, "William Joseph Johnston did this"—in fact, how would they identify me anyway—and they say, "You did this on that premises", what is the system? I could say, "No, it wasn't me; it was Antonio Buti who did it, not me", particularly when using closed-circuit television footage and these sorts of things; these are very poor mechanisms for identifying people.

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**Mr T.K. Waldron:** No, it is not about —

**Mr W.J. JOHNSTON:** So how does the police officer identify the person and ensure that the procedures provided for in this bill will be done in a fair way so that the person to whom it is intended to issue a barring notice is the right person? They are two very important issues. Firstly, how will the publican identify the person? Will it be done through this scheme that the police have imposed on publicans by scanning drivers' licences, which would, on the surface, appear to be an unlawful practice, or will there be some other mechanism? Secondly, what provisions in this bill go to the question of process—natural justice—which is very essential? Let me make it clear: one of the problems will be that people will say, “I have not been granted fairness”, and seek the relief of the courts. How is the government going to deal with these two very important, tangentially related issues in this provision?

**Mr T.K. WALDRON:** The member is not really on this course, but I will give him the answer.

**Mr W.J. Johnston:** I am.

**Mr T.K. WALDRON:** Firstly, it is not required under the act; identity scanners are not required under the act. ID scanners are a measure introduced voluntarily by licensees of their own volition. Can I say that a lot of young people tend to go to those places because they feel quite safe in them. People do not have to go in there; that is what they do.

**Mr W.J. Johnston:** But it's unlawful.

**Mr T.K. WALDRON:** Barring notices are required to be published. That is why I was saying that the member has obviously not read the bill.

**Mr W.J. Johnston:** No, I have read the provision, but how does the publican know that I am me?

**Mr T.K. WALDRON:** Barring notices are required to be published on a secure website.

**Mr W.J. Johnston:** Okay.

**Mr T.K. WALDRON:** The member talked about natural justice; the appeal provisions provide for that natural justice. In many cases the publican will know the people because they might be habitual; in other cases, there will be something that takes place that causes them to report that person—there is an incident register—or the police themselves may be called and actually take the action.

**Mr W.J. Johnston:** How will they know who it is? Minister, it's a pretty simple question. The minister didn't answer either of them.

**The ACTING SPEAKER (Ms L.L. Baker):** Member for Cannington, are you on your feet?

**Mr W.J. Johnston:** I will be in a minute.

**The ACTING SPEAKER:** The member for Collie–Preston has the call.

**Mr M.P. MURRAY:** Although we have gone through the bill and been briefed on the whole lot, there will always be some things we will miss. I will probably explain this in a bit more clarity under proposed section 115AA(2)(c), and this is what I would ask the minister to consider before we have to go to any other extremes. It reads —

contravened a provision of any written law.

This involves antisocial behaviour as defined in the Prohibited Behaviour Orders Bill 2010. I think the “any written law” needs to be tidied up because it could be that somebody has not sprayed their chooks or something like that. I do not know what it actually means. I think it just leaves it far too open in that area.

**The ACTING SPEAKER:** Excuse me, member; I just need to make the point that we are, at present, restricted to considering the minister's amendments. If what the house is discussing is going back and changing something in the minister's amendments, then we in fact should probably, to be clean, complete the discussion about the bill and the amendments. At the conclusion, if the minister wishes to go back and reconsider something that we have previously raised, then that will be acceptable. But we should proceed, in fact, with the minister's amendments, and the minister might indicate that he will go back.

**Mr T.K. WALDRON:** I want to proceed with the amendments, but I can answer that straightaway. No, I will not accept that change to “any written law” because, by doing that, we would make it too prohibitive to disorderly behaviour and we might miss other things such as, for instance, spiking drinks and pickpockets. Spiking someone's drink, I think, is a pretty nasty sort of behaviour that someone could probably be barred for.

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So, no, I will not accept that; I think this sets it out well. I think I have covered it really well and the member continues to miss the whole point behind it.

**Mr M.P. Murray:** I understand the point, but we are trying to establish the meaning of a point of law. It probably leaves it open because it states “contravening any law”. I mean, it is just so broad, according to my learned friend. But it is so broad and that is why we are trying to narrow it down to a definitive area.

**Mr T.K. WALDRON:** Another member talked about fraud and all this other stuff: remember, as the member for Collie–Preston and the member for Rockingham said, this has to occur on the licensed premises. If someone feels they have been hardly dealt with, they have the right of appeal.

**Mr M.P. Murray:** But that still comes back to people who could be share trading or something like that—as silly as it may sound.

**Mr T.K. WALDRON:** It must occur on the licensed premises—the very point was made—so I do not accept that. I think the member for Collie–Preston has been really good; we have worked through all those other amendments and I think that amendment could cause us some real difficulties.

**Mr B.S. WYATT:** Just to clarify, did the minister say that “contravene a provision of any written law” means that that contravention has to have taken place on licensed premises?

**Mr T.K. Waldron:** Yes.

**Mr B.S. WYATT:** Because, if so, why does not proposed section 115AA(2)(c) read, “contravene a provision of any written law”, and then narrowed “as a result of activities that took place on licensed premises”? Because, at the moment, it does not state that at all; it is exactly as the member for Collie–Preston has indicated. It is “any written law”, federal or state, but we do not yet have it properly narrowed in that proposed section 115AA(2)(c).

**Mr T.K. Waldron:** Member, if you just read at the bottom of my amendment to proposed section 115AA(2) it states —

... on reasonable grounds, that the person has, on licensed premises ...

So it is there.

**Mr B.S. Wyatt:** So “those” is replaced with “licensed”.

**The ACTING SPEAKER:** Members, I need someone on their feet if we are entering into this discussion, please.

**Mr W.J. JOHNSTON:** I will not be long. The minister has said that I do not understand the provisions, but I actually do, and that is the point I am making. I refer to a person who gets a barring notice and it goes onto a secure website. Let us say William Joseph Johnston gets barred and I am on the secure website and if I turn up at the pub; how do they know that I am me? It is a very simple question. Does the minister just want to answer by interjection, and then we can move to the next topic? Just answer by interjection. How do they know that I am me?

**Mr T.K. Waldron:** Firstly, on the restricted website there may or may not be a photo; secondly, if they turn up, the person commits an offence by going onto the licensed premises. If he is not recognised, he is still committing an offence. The idea of the barring notice is that it is not a criminal offence; it is to put them on the bench. If they break it, they take the risk—it is similar to people who drive with suspended licences, I suppose. The idea of this is to give those youngsters a holiday. The bill is not perfect about catching them on the premises; however, the actual act of getting the barring notice achieves what we are trying to achieve.

**Mr W.J. JOHNSTON:** But how, minister, if no-one knows who I am?

**Mr T.K. Waldron:** They may or they may not.

**Mr W.J. JOHNSTON:** They may or they may not, but how? There is no mechanism in this provision for that. There is no mechanism at all in this bill—not a single word on it.

**Mr T.K. Waldron:** On the website there is.

**Mr W.J. JOHNSTON:** No; with respect, minister, that is not right. There is a secure website with information.

**Mr T.K. Waldron:** The licensee can access that webpage—actually, not site, but webpage.

**Mr W.J. JOHNSTON:** Okay. Let us say it has a photograph of me and I shave my beard off and I do a Quigley with my hair; how do they know I am me?

**Mr T.K. Waldron:** I will answer it.

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**Mr D.T. Redman:** It is the same as someone driving without a driving licence.

**Mr T.K. Waldron:** I was about to say that.

**Mr W.J. JOHNSTON:** If the minister wants me to sit, I want him to come back to the second issue. I am happy to sit, but there is no provision in this bill that states how the publican will enforce the act, because if it is going to be a deterrent, it has to work. At the moment, I understand that the only way this bill can work is if a person's driver's licence is scanned upon entry to a licensed premises, and that is unlawful. That arrangement is against the federal Privacy Act. The minister will need a provision that allows the identification of the person. If the minister really wants this legislation to work, he must give the publican a way to identify people, because there is no provision that requires the person to be identified.

**Mr T.K. WALDRON:** There is. Licensees, managers and the police will all have access to a restricted web page that identifies that person. Also, in a lot of cases, the person will be known to the licensee. A lot of people who have lost their driver's licence continue to drive and do not get caught. Similarly, a person who is barred runs the risk of getting caught. That person will not be recognised every time. The responsible person at the hotel must know that the person is barred and must make a conscious decision to allow the person to enter the licensed premises before that responsible person commits an offence. This is about the whole aim of the legislation. Sometimes people who contravene the legislation will get caught and sometimes they will not.

**Mr W.J. Johnston:** They will almost never get caught.

**Mr T.K. WALDRON:** We will wait and see. I am sure that they will, although they will not get caught all the time. If a person does not get caught but then returns to a licensed premises and mucks up again while under a barring notice, he will be in further trouble. The member can pick a technicality —

**Mr W.J. Johnston:** It is not a technicality; it is an unenforceable law. It does not work.

**Mr T.K. WALDRON:** It is not an unenforceable law. In many cases, the licensee of a hotel will know the person who has been barred. I grant that that will not be the case so much in the bigger hotels, but licensees in a lot of the smaller hotels will know the person. The licensee will also have a photo of the person on the restricted website.

**Ms M.M. QUIRK:** The minister will be pleased to know that I want to talk about the publication issues. Proposed section 115AC sets out the information that the Commissioner of Police must publish on the website, which is the name of the person, a photograph of the person, the town or suburb where the person lives, and the licensed premises, or class of licensed premises, to which the notice relates. This proposed section does not permit the publication of anything identifying a child, other than a person to whom a notice is given, or the exact address of the person or the details of any offence of which the person was convicted in the Children's Court. That is the information that the commissioner must publish. It seems to me that the only prohibition on the other type of information that he must not publish is that which is included in proposed subsection (2). I do not think that the commissioner is prohibited, for example, from printing the exact details of any offence of which an adult has been convicted. Can the minister confirm that although this proposed section deals with what the commissioner must print, there is absolutely no prohibition on him printing additional material other than that which occurs under proposed subsection (2)?

**Mr T.K. WALDRON:** My advice is that under the Criminal Investigation (Identifying People) Act, the police are prohibited from publishing other material. We see in this proposed section what the police can publish under this legislation.

**Ms M.M. QUIRK:** I accept that that is the intention. However, proposed section 115AC(2), which is about the prohibition on publishing certain information, includes the details of any offence of which a person was convicted in the Children's Court. That would probably already be covered by the Young Offenders Act. The minister is specifically duplicating what is in the Young Offenders Act, but that has not been done with the provision for adults. The express mention of the prohibition in relation to children—I know the Latin phrase but I am trying to find the English one—would lead to an inference that other information could be published. In that regard, I also ask the minister—to save him from getting up and down again—whether the regulations will prescribe the format for what needs to be put in the notices?

**Mr T.K. WALDRON:** I am advised that this has been drafted to be in line with the Prohibited Behaviour Orders Bill. To reflect the amendments proposed in the PBO bill, the constraints relating to the publication of a person's address have been removed. This matter was raised by the member for Mindarie at the time. To reflect the amendments proposed in the PBO bill, the constraint relating to a person's address has been removed. What was the member's second question?

**Ms M.M. Quirk:** Will there be a prescribed form in the regulations?

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**Mr T.K. WALDRON:** It is not in the regulations; it is approved by the Director of Liquor Licensing.

**Ms M.M. Quirk:** Surely there is a standardised form in the regulations about what needs to be put on the website.

**Mr T.K. WALDRON:** No.

**Mr W.J. JOHNSTON:** I want to return to the question of natural justice. Can the minister describe how the police will go about issuing a barring notice? Will there be a hearing? How will the evidence be presented to the Commissioner of Police or his delegate? What is the process by which the notice is then given to the individual? Does the person have to be present when either the commissioner or the delegate makes the decision? Does the person have the right to be heard? Is there a process to rebut the evidence? Can the person ask questions? Do witness statements have to be produced? Exactly how does it happen? Clearly, if we do not provide for natural justice, there will be some problems with the implementation of the provision. How many barring notices does the minister imagine will be issued in a three-month or 12-month period? Will it be tens, hundreds or thousands? Exactly how many people does the minister expect will be caught up in the provision?

**Mr T.K. WALDRON:** The police would act, as they usually do, under the administrative requirements of their act. If they wanted to issue a barring notice, they would serve the notice and apply, with the particulars of the notice, to the commissioner, who would make a decision. The police cannot just give out a barring notice; it must go to the commissioner. Natural justice is ensured because a person who is barred for more than one month has the right of appeal. Remember, this is not a criminal offence; there is no conviction. This is a barring notice; it is a warning. There is no conviction and no criminal offence, and the person has the right to appeal. Currently, a person can be refused service in a pub for 24 hours. The publican and the police can do that now. This legislation extends that, but only with the approval of the Commissioner of Police. The lowest ranked police officer who can issue a barring notice is an inspector. I come back to the point that this is about giving those offenders an opportunity —

**Mr W.J. Johnston:** Offenders?

**Mr T.K. WALDRON:** They are offenders if they are causing danger et cetera. This is about protecting the public and the licensees and protecting the person from getting himself or herself into further trouble. They have the right of appeal. There is no conviction. It is time on the bench to think about their actions. Hopefully, they do that thinking and not offend again, thereby getting themselves into further trouble.

**Mr M.P. MURRAY:** I refer to proposed section 115AD(3) and the minister's statement about the right of appeal. Will the minister explain how the applicant will go about that right of appeal, and the make-up of the commission? Proposed subsection (4) states —

An application under subsection (3) must be made within a month after the applicant is served with the notice or such longer period as the Commission may allow.

I understand the appeal has to be made to some body, but will the minister please explain to me the make-up of that body?

**Mr T.K. WALDRON:** A person barred for more than a month has the right of appeal. He or she has one month in which to lodge the appeal application with the Liquor Commission.

**Mr M.P. Murray:** Is that within the first month?

**Mr T.K. WALDRON:** Yes; and the one month can refer to a one-month ban or accumulative bans; for example, if I were banned for two weeks and then for a subsequent three weeks, a total of five weeks, I could appeal. Proposed section 115AD(6) states —

When conducting a review of the decision, the Commission may have regard to —

- (a) the material that was before the Commissioner of Police when making the decision; and
- (b) any information or document provided by the applicant.

If the applicant thinks he has grounds or feels that the commissioner has been overzealous in applying the barring notice, he can make those points known to the Liquor Commission when he appears; that is, he can appear before the Liquor Commission to state his case. The Liquor Commission is made up of —

**Mr M.P. Murray:** What is the make-up of the commission? How is it structured?

**Mr T.K. WALDRON:** It is a statutory body on which one to three people can sit to hear any cases. The commission listens to appeals from licensees about prohibition orders and the whole lot.

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**Mr M.P. Murray:** Is that commission already in place?

**Mr T.K. WALDRON:** Yes; the Liquor Commission is in place.

**Mr M.P. Murray:** It exists and is in place.

**Mr T.K. WALDRON:** It exists, member for Collie–Preston.

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clause 31: Section 128 amended —**

**Ms M.M. QUIRK:** Minister, I want to look at amending the section 128 provisions, which, as I understand, relate to the imposition of licence fees. Is that correct?

**Mr T.K. Waldron:** That is right.

**Ms M.M. QUIRK:** I understand that there will be the capacity to impose differential licensing fees on equivalent premises, based on their convictions for offences under the act, disciplinary actions and, of more concern, any other criteria prescribed in the regulations. Firstly, what criteria is the minister contemplating? Secondly, who makes the decisions about the scale of fees imposed?

**Mr T.K. WALDRON:** One of the licensing system's inhibiting factors is that section 128 of the act provides for the prescription of annual licence fees by licence type only. Therefore, a small tavern in a suburban area or a small country tavern will pay the same as a big hotel in Northbridge with extended trading permits. Clause 31 seeks regulations to enable the prescription of fees based on the class of licence, the conditions of the licence, the type of premises, the location of the premises, the capacity or maximum accommodation of the premises, the trading hours and also the compliance history. The idea is to provide the flexibility that will allow us to target some of the big problem venues. At the moment, everyone pays the same fee, whether it is a really good publican operating a really great business that is a small hotel or someone who has extended trading permits and is making heaps of money but is causing great danger, damage or antisocial behaviour at great social cost to the community and great financial cost to the taxpayer. Queensland and Victoria have similar arrangements; we have not made any decisions about what we will do, but this legislation will give us the flexibility to look at increasing or altering fees. At the moment, a small wine producer has to pay these big fees because we can charge only by licence type. As well as targeting the premises causing problems, including the criteria I mentioned earlier, we are also trying to give smaller businesses the opportunity to not have to pay big licence fees.

**Ms M.M. QUIRK:** Minister—I mean Madam Acting Speaker.

**The ACTING SPEAKER (Ms L.L. Baker):** Member for Girrawheen, thank you very much for the promotion!

**Ms M.M. QUIRK:** Firstly, does the minister contemplate that the licence fees will be prescribed in regulations?

**Mr T.K. Waldron:** Yes, that is right.

**Ms M.M. QUIRK:** I want to ask two questions because the fees prescribed in regulations will need to be prescribed on a cost-recovery basis. Is it not the case that some of the criteria for increasing licence fees do not relate to increasing departmental costs for the processing of the application? How is it that the Joint Standing Committee on Delegated Legislation will not recommend disallowance of these regulations because these fees are in fact in excess of cost recovery?

**Mr T.K. WALDRON:** These are not application fees; they are licence fees and will be prescribed in regulations. Government policy now requires all regulatory proposals to be subject to examination by the Treasurer's regulatory gatekeeping unit to assess the impact on consumers and industry.

**Ms M.M. Quirk:** But the minister told us the other day that that had not occurred.

**Mr T.K. WALDRON:** We have not made the regulations. This is a head of power; we have not made the regulations. The proposed section refers to regulations and this is just the head of power; we have not made any decisions, but this legislation will give us the power to do that.

**Mr M. McGOWAN:** I want to ask a simple question about the setting of the fees. The minister has indicated two models—the Victorian and the Queensland models. I understand that industry is quite concerned about the application of what could broadly be termed the Victorian model as opposed to the Queensland model. I think the industry would like two things. Firstly, it would like an assurance that the government is more likely to go down the path of the Queensland model as opposed to the Victorian model—I am interested in whether that is

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something the minister will do. Secondly, it would like to know how the minister will integrate consultation with the hospitality industry in the determination and drafting of these regulations to ensure that its interests are taken into account?

**Mr T.K. WALDRON:** I thank the member for the question. We have already given the industry the undertaking that we will consult strongly with the industry before any decisions are made. Once again, if we were to make decisions, they would be put in place by regulation, and that would need to go through the regulatory audit committee. We will definitely consult. I do not want to comment on the systems in Queensland and Victoria. We have not gone down the full path of assessing those systems as yet. I am aware of some of the issues that have arisen. Before we even contemplated it, I would certainly make sure that we strongly assessed the systems in those states. There is also a system in, I think, Ontario that we would also look at before we went down that path. Consultation will occur and we have already advised the industry of that.

**Mr M. McGowan:** Which elements of the industry are you going to consult?

**Mr T.K. WALDRON:** I would do what I usually do, and that is consult with the peak bodies in the industry and also with individual licensees.

**Ms M.M. QUIRK:** Can I just confirm that the minister has said that this is really to give him the head of power so that he can draft the regulations? Is it the case that he has not calculated the quantum of increase of any of these licence fees? He has no idea about what the increase will be.

**Mr T.K. WALDRON:** No.

**Clause put and passed.**

**Clause 32: Section 152K amended —**

**Mr T.K. WALDRON:** I move —

Page 35, line 19 — To delete the line.

**Mr M. McGOWAN:** I am after an explanation of that amendment.

**Mr T.K. WALDRON:** I was about to give that explanation. This amendment reflects the amendments proposed to the Prohibited Behaviour Orders Bill 2010, and seeks to remove the constraint relating to the publication of a person's address. We are doing the same thing that we did with the barring notices. I think the hotels wanted this provision to help enforce their prohibition orders.

**Mr M. McGowan:** I do not quite understand the explanation. What are you saying will happen?

**Mr T.K. WALDRON:** We have just been through all this with the barring notices. This amendment will do exactly the same thing. It reflects the amendments proposed to the Prohibited Behaviour Orders Bill, and the constraint relating to the publication of a person's address is to be removed. This is for prohibition orders. We are doing the same thing with the prohibition orders as we did with the barring notices. The member for Mindarie raised this issue during debate on the Prohibited Behaviour Orders Bill. We are doing it in this case so that they are in line. That is the only reason it is in the bill.

**Mr M. McGOWAN:** Clause 32 deals with the information to be provided. Does it deal with putting the information on the internet?

**Mr T.K. WALDRON:** No. The member for Mindarie raised the issue that a person could be identified through the electoral roll and therefore it was ridiculous to constrain the publication of a person's address. That provision was changed and we are doing that with the barring notices and with the publication of these orders. It is a copy of what we have already done.

**Mr M.P. MURRAY:** I could not quite hear what the member for Rockingham said, but proposed section 152K(2C) provides —

A person may republish in any manner something that has been published under subsection (2A).

The minister is seeking to delete the provision relating to publishing the exact address of a person. I thought that the idea was to remove that provision so that we would not have posters and that sort of thing under a secure system.

**Mr T.K. WALDRON:** I was a bit lost for a minute, but I am with the member now. This deals with the more serious offences—the prohibition orders—not barring notices. Prohibition orders have been through the full judicial process. Under the principles of natural justice, people can appeal. This relates to serious offenders who get prohibition orders for glassing, drug dealing et cetera. That information is not on a restricted website. That

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information is public because it has been through the courts et cetera; it is published as a normal record. This is not like the barring notices.

**Mr M.P. Murray:** But this refers to republishing. Where does that stop? That has been the concern all the way through. Can anyone take that away and have it stuck up?

**Mr T.K. WALDRON:** This does not relate to barring notices. This deals with something that has been through the full judicial process, whereas barring notices are not an offence —

**Mr M.P. Murray:** I certainly understand that. In a court of law, it would be printed out like anything else.

**Mr T.K. WALDRON:** Yes, like any charge.

**Mr P.B. WATSON:** I am concerned about how they will get a photograph of the right person. I was in Northbridge the other night with the committee. When they checked the IDs, they did not even look at the person; they just grabbed the IDs and put them through. How do we know that the photo or the so-called ID that they have is the right one?

**Mr T.K. WALDRON:** Is the member talking about prohibition orders or barring notices, because there is a difference?

**Mr P.B. Watson:** It says “a photograph of the relevant person”.

**Mr T.K. WALDRON:** The police would have a photo of the person only if that person had been charged with a criminal offence and had had a photo taken, so in lots of cases the police would not have a photo. With a prohibition order, a person is charged and convicted and the police would have a photo; therefore, they would publish that photo. There is a big difference between the two.

**Mr P.B. Watson:** I was going to ask this before, but I did not get a chance. How are they going to do it for the barring notice?

**Mr T.K. WALDRON:** They may not. In some cases they will, and in some cases they will not. The whole idea is to get them on the bench.

**Mr P.B. Watson:** So what are they going to put on the website?

**Mr T.K. WALDRON:** The person’s name, street and suburb or town; and, if they have a photo, they will put that on the webpage as well. With the barring notices, that information is on a restricted webpage, but with the prohibition orders it is not.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 33 put and passed.**

**Clause 34: Section 175 amended —**

**Mr T.K. WALDRON:** I move —

Page 36, line 21 — To delete “prohibiting” and substitute —  
regulating

This amendment establishes an authority for a lockout to be established by regulation. Section 175(1)(ce) will be amended to read —

regulating entry to licensed premises after a time of the day or night specified in the regulations; ...

Currently, the paragraph refers to “prohibiting entry”. This will allow the regulations to prescribe conditions that may be applied to lockouts. This is intended to allow flexibility to limit lockouts to certain premises or certain areas or to cover issues such as a person leaving temporarily to escort someone to a car. It gives flexibility and it gives the ability to place conditions on a lockout.

**Mr M. McGOWAN:** As I understand it, this clause deals with lockouts, which has been one of the most significant issues with this legislation. It appears from the amendment moved by the minister that it might mean that a lockout is not, in effect, a lockout. I would have thought that a lockout, by definition, means that people are not allowed in or out once the lockout is in effect. The minister is now saying it is not a lockout because he might prescribe that people are allowed in or out even though a lockout is in place. Lockouts are an interesting idea. I must say I have been a little on the fence as to their validity or success, or how they might work. The reason I say this to the house is that a lockout as it is imposed might say to people who are intoxicated at a certain hour of the day—one, two or three in the morning—that a person is no longer permitted into these



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premises or no longer allowed out of these premises if that person wants to return. Of course, people at that hour of the night, particularly young men who might have had something to drink, who are not being permitted into premises or not allowed to leave and then return, might take that rule quite badly. I realise there has been some capacity to introduce lockouts under the existing provisions, and that that has been imposed in a couple of venues based upon criteria that I am unable to work out, but I am seeking from the minister his justification. Has the minister examined the evidence as to whether imposing lockouts improves the situation or whether it has the potential to make the situation, in terms of violent behaviour on the streets, worse? One can imagine a young bloke not being permitted into premises where his friends are, or, having left those premises, not being permitted back into those premises where his friends or girlfriend is, and how that might enhance the prospects of violence as opposed to reduce the prospects of violence. I am wondering if the evidence shows whether lockouts have been effective.

Secondly, I am interested in how these provisions might be imposed. I suppose we will tease this out as time goes by. I am quite concerned about the hours in which these lockouts might be imposed. As we know, a midnight lockout has been imposed on the Brass Monkey hotel. There might be reasons behind that. The Brass Monkey is probably the last pub I went to, a couple of years ago. It seemed like quite a sedate venue to me. It has had a midnight lockout imposed on it. I am interested when the minister would see lockouts as being something that he wants to put in place and at what time he would see lockouts put in place. I am after, one, the evidence and, two, the times that the minister might put lockouts in place.

**Mr T.K. WALDRON:** As members know, currently lockouts can be imposed only by the Director of Liquor Licensing. The process is quite cumbersome. The director actually came to us to recommend that we should allow a lockout to be established by regulation of government policy. I want to make one thing clear right from the start here, because lockouts are quite contentious; I understand that. Once again, all we are doing here is giving the head of power to government to be able to do that. We have not made any decision on lockouts. As I said in my second reading speech, I do not have an intention to seek midnight lockouts. I would not move in any directions for lockouts unless I have clear evidence. We are looking at it as a possible tool to go with a suite of other tools, like restrictions, barring notices et cetera, to try to combat disorderly behaviour and danger. We are not saying we are going to do it. We are giving ourselves the power to do it. If we were to do it, one, once again we will consult and, two, I would want clear evidence. I am not 100 per cent convinced that lockouts are the be-all and end-all, but I think they may well have a purpose. We have seen quite strong evidence, particularly in Newcastle over east, that lockouts reduce the level of assaults et cetera. We would be silly not to investigate that.

I think it is important that we have that as a tool. If we get a situation in which we are having a real problem in a specific area, the process at the moment takes a long time. It is cumbersome. This bill would give the government the power to utilise the lockout as one option to try to address the situation. Drunken people move from hotel to hotel. The timing of hotel and nightclub lockouts is something that could be debated. On the midnight lockouts, it is not my intention to provide midnight lockouts.

**Mr M. McGowan:** One o'clock?

**Mr T.K. WALDRON:** We would look at that. I think that is a possibility depending on what the closing hour of the venue is. It may be that we look at a period leading up to the closing time. That might be different with extended permits. We have not made any decision. This simply gives us the power. These amendments will allow us to do that. In the future it may well give a government or a minister the ability, obviously, to use a lockout as part of an overall plan to combat crime, and drunk and disorderly behaviour. The other thing of course, if we were to impose a lockout, is that it would have to be done via regulation. It would go through the gatekeeping measures again, and obviously that is subject to disallowance.

**Mr M.P. MURRAY:** That is confusing, to say the least. The government wants the laws but it does not want to use them; it does not intend to use them but it might use them. It is very confusing to see why we are actually doing this. I did not quite hear the answer about "apparently". I say "apparently" in some hotels restrictions are already being put on re-licensing.

**Mr T.K. Waldron:** That is a decision by the Liquor Commission. I cannot interfere with the Liquor Commission.

**Mr M.P. MURRAY:** The other point relates to appeals. I believe they are able to appeal to the courts on that side of it. In the section under legislation, if, by some chance, the minister got a bit cranky and said, "Yes, I'm going to impose something", what appeal process is there? Is there any appeal process? What is the normal process there? I am still, as I say, very confused about why the minister wants it when he said he does not intend to use it. He then changed it to say that he does not intend to use it from 12 o'clock, or he might use it from some other time. The minister's answer was a bit confusing.

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**Mr T.K. WALDRON:** It is just a head of power. Obviously once we put the head of power there, we can use it. It has been put there. I have said this publicly on a number of occasions: if, as minister, I think it is in the public's best interests to use a lockout as a tool, and that power is there, in the best interests of protecting the general public or to ensure public safety I have the ability to apply it. If I thought it was the right thing to do, I would.

On the appeals, if the lockout is done through the Director of Liquor Licensing, there is a right of appeal to the Liquor Commission. If the lockout is applied by the Liquor Commission, there is a right of appeal to the Supreme Court. If we had the head of power and imposed a lockout, that is done by regulation; the Parliament then has the right to disallow that regulation.

**Ms M.M. QUIRK:** In relation to these so-called lockouts, if I can use the vernacular, from what I gather the minister says he has no present intention to use them. He may well at some undefined time.

**Mr T.K. Waldron:** What I said in my second reading speech was that I have no intention to seek midnight lockouts, but it gives us a head of power. As I just said, I would satisfy myself by evidence, but if I thought it was an option to help us control unruly behaviour et cetera as part of the suite, I would use it.

**Ms M.M. QUIRK:** But the minister does not intend to do that before it goes through the process of regulations being drafted and it goes through this regulatory impact statement?

**Mr T.K. Waldron:** I have to do it by regulation.

**Ms M.M. QUIRK:** Is it your intention that once that power is up and running to impose lockouts on a whole area or on individual licensees?

**Mr T.K. Waldron:** The flexibility is there for me as the minister with that head of power to do that. I have not made any decision. We are including this in the bill to give that flexibility.

**Ms M.M. QUIRK:** It is to get the vibe we need to get, I understand minister. Is it the case that it will not, for example, be linked as it was with the imposition of licence fees to whether, for example, there have been convictions for offences under the act or disciplinary action has been taken? Will it be unconnected to that? If the minister is contemplating a blanket, potentially, some licensees that have behaved well, kept orderly premises et cetera may well still come within the purview of this provision.

**Mr T.K. Waldron:** Yes, but the director can still look at lockouts on a case-by-case basis.

**Ms M.M. QUIRK:** I think he mentioned that the current process is cumbersome. I understand as a condition of a renewal of a licence for premises in Northbridge that such a —

**Mr T.K. Waldron:** Is that the extended trading permits?

**Ms M.M. QUIRK:** Yes. Is there any intention with extended trading permits to limit the number of hours licensed premises will be able to act under an extended trading permit?

**Mr T.K. Waldron:** Are you talking about lockouts to those premises?

**Ms M.M. QUIRK:** Yes.

**Mr T.K. Waldron:** Yes. No decision has been made about whether we will have a one o'clock lockout or a two o'clock lockout or whatever.

**Ms M.M. QUIRK:** So there is no intention, for example, to get rid of extended trading permits to 2.00 am?

**Mr T.K. Waldron:** No.

**Ms M.M. QUIRK:** As much as I give the member for Alfred Cove a hard time, I mentioned in my speech on the second reading debate that the member for Alfred Cove's Education and Health Standing Committee seems to be involved in a very far-reaching inquiry into the impact of alcohol in a range of areas—outside the committee's terms of reference I have to say.

**Mr J.N. Hyde:** Is that in Perth or where?

**Ms M.M. QUIRK:** I think it might be going overseas. If the minister is already making these decisions on what I think will be recommendations of that committee, is he not concerned that he is pre-empting the parliamentary process and the committee's recommendations by effectively enacting legislation when he is not quite sure how it works, the extent of it and what its impact will be?

**Mr T.K. WALDRON:** As I said before, I am not making decisions on lockouts; I am merely putting the head of power in the act that will give us the ability to do that. I have appeared before the member for Alfred Cove's

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committee. I understand the work it is doing. That obviously forms part of what we may well look at as time goes on. If this is passed and a situation develops, or we thought a lockout might be appropriate for a particular area because we thought that would help a situation, I would have an obligation to look at that, but I have no specific intentions.

**Ms M.M. QUIRK:** Is this a decision the minister has reached of his own volition or has he had some pressure from the Premier or the Premier's office? I know Mr Conran has taken a personal interest in all of this.

**Mr T.K. WALDRON:** This started because the director general recommended it to me, so I initiated this. I have had discussions with the Premier's office and with other ministers on this. I have to say I have had discussions with the groups et cetera and I have discussed it with different licensees. A licensee saw me the other day who imposes his own lockout now, but that is his decision.

**Ms M.M. Quirk:** You said you have had discussions with other ministers. Did that include the Minister for Tourism on the impact this might have on hospitality and tourism?

**Mr T.K. WALDRON:** Yes, I think I have discussed it. I am trying to think when I might have discussed it personally with the Minister for Tourism. I am not sure about that. I cannot remember sitting down with the minister but this obviously went through cabinet. I took a long time explaining this in cabinet. I have also explained it to party rooms et cetera.

**Ms M.M. Quirk:** I do not want the minister to disclose cabinet processes, but could it be anticipated that if there were issues, the Minister for Tourism would have raised them as part of the cabinet meeting?

**Mr T.K. WALDRON:** I guess it is a matter of how we look at it. Say we were to impose a lockout for a period and some people could get in for that period. Some people would go home and some might go somewhere else if there is somewhere else open. With tourism, we have to balance having a night-life, which we all want and I think young people need. I have daughters. We need a night-life to attract tourists, but we need a safe night-life. It is no good having a night-life if everyone is too scared to go out. Rightly or wrongly, there are perceptions that it is really dangerous to go to some areas. Sometimes those perceptions may be right and sometimes they may not be.

**Ms M.M. Quirk:** I have no doubt that you are diligent and conscientious in your endeavours; I am inquiring whether your colleagues have input into that and whether they should have.

**Mr T.K. WALDRON:** Yes, they have.

**Ms M.M. Quirk:** What form did that input from the Minister for Tourism take?

**Mr T.K. WALDRON:** It was through cabinet. I have had discussions with different ministers about what we are doing. Members from all sides of politics have had great input to this. The Australian Hotels Association has run a campaign and I have had great input from that. As I think I said in my second reading speech, the whole aim of the bill is to achieve that balance. I am trying to get it where it is right. I think we heard in members' contributions to the second reading debate that it stretches from one end to the other. I am moving amendments to the bill simply because people have raised very good points that I have taken on board. The member for Collie-Preston, perhaps with help from others who have consulted, raised some really good points. We have taken them on board because we are trying to get the best result we can.

**Mr M. McGOWAN:** Earlier I asked the minister whether he was convinced that lockouts were a practical and sensible way of going forward, and whether he thought they would make a difference in dealing with antisocial and violent behaviour. As I said to the minister, I concede that there may be swings and roundabouts in relation to this matter. I wanted to know whether there is evidence that they work and whether it is the minister's view that they work. I was listening to a radio broadcast the other morning about Newcastle and a facility that I am familiar with. It said that lockouts had been introduced at 3.00 am or 3.30 am, as I recall, to deal with antisocial behaviour. Our hotels by and large close at midnight or 2.00 am. I think most close at midnight. So, in transposing the Newcastle experiment onto Western Australia, we would be imposing a lockout when virtually everything else was already closed, apart from nightclubs. My question remains: is the minister convinced that these lockouts will work, or will they make the situation worse? That is question one. Question two is: what is it about the existing process whereby these measures are implemented outside of, if we like, the political process, by the Director of Liquor Licensing, that is unsatisfactory? What is inadequate about that approach, and how long would it ordinarily take for the Director of Liquor Licensing to undertake that process? What is unsatisfactory about the existing process that requires this regulation to be implemented?

My third question is about the potential for this measure to be politicised. There will be pressure. In Northbridge, there is a preponderance of CCTV cameras. There is also a large number of people with mobile phones who may film behaviour that is unacceptable. Therefore, there will be far more footage around the place than there would

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be at other sites. Naturally, as we have discovered, the Premier, as a politician, has used this issue to politicise the incidents that happen in Northbridge, even though this legislation would not have dealt with those incidents. We know that a degree of political pressure can be put on. Why is it better to have a process under which the minister might respond to political pressure, as opposed to the director, who might respond on a more rational basis to evidence rather than to the baying of the media? I saw the minister the other night with a laptop in front of him watching a fight on the street and saying how we need to implement these laws—even though, as the minister said earlier, these laws would not have made any difference. We can see how, politically, this would be the easiest course of action. But why is it better for the minister to take this political approach rather than the existing approach, whereby those considerations might not come into play?

**Mr T.K. WALDRON:** Personally, I do think that lockouts can serve a purpose. As I said in my second reading speech, I am not convinced that they are the answer to everything, but I think it is worth investigating the results. The results show that there was a 34 per cent reduction in assault incidents in the intervention area, and a significant increase of two per cent in the controlled area in the same period. That was in Newcastle. That shows that it works. Also, in Victoria, there was a reduction in total reported assaults across the city of Melbourne of approximately 23.9 per cent, and in Port Phillip of approximately 57.4 per cent. I am not saying lockouts are the be all and end all. I have always said, even when we are talking about the north of the state, that the control of alcohol and the problems with alcohol involves a number of things. There is not one thing that is going to fix it. But this will give us the power to implement lockouts if we think that is what should be done. The Director of Liquor Licensing can impose lockouts now. But under section 64 of the act, he is required to ask the police to show cause; so there is a period of time while they gather that information, and that may take several weeks. If he makes that decision, there may then be an appeal. When we had the trial in Northbridge, I think it was indicated by the Liquor and Gaming Commission that if we wanted to do that, the commission might not support that in an area. I am told that is correct.

**Mr M. McGowan:** The Liquor Commission can overrule the director.

**Mr T.K. WALDRON:** Yes. The commission handles the appeals. Remember that I said to the member for Collie—Preston that if the director makes a ruling, the appeal is to the Liquor Commission. What we are doing here, on the advice and at the request of the director, will give us that power. So, if we think that a lockout would assist a certain situation, we would then be able to enact that in a reasonable time. Once again, it is about trying to protect the public. It is not about trying to impose a lockout willy-nilly. It is about trying to impose a lockout if we think that is necessary.

On investigation, and from talking to people in other areas—Newcastle and Melbourne—that have had these lockouts, if we are not convinced, we will not apply them. It is as simple as that. But we may well do that if we think it works. If it does not work, we will not keep applying it. I think lockouts can have an effect. But it may depend on where there are, particularly if they are in areas where there is a conglomeration of licensed premises, and where people are moving around the streets who have consumed a lot of alcohol. The argument that is put up is that we could have trouble if we lock people out. I understand that. I am not stupid. If we were going to do that, we would need to monitor that very closely, because the last thing we want to do is make the situation worse. But at least this will give us the power to do that if we think we need to.

**Mr M.P. MURRAY:** Having heard that and bearing in mind our changing world in the future, I just wonder whether Friday nights have been taken into consideration. In some cases quite a lot of young people will be working late because of the extended trading hours. By the time they get home and have a shower and get ready to go out, we will be actually pushing things back again and taking things further out. I wondered whether the minister had taken the impact of that into consideration.

I have a few more questions on that. I also wondered, with our understanding of rents, lease fees et cetera, especially in inner city areas where turnover needs to be fairly high, whether an impact statement had been made on those areas.

The other issue is about imposing lockouts in one particular area and all of a sudden there is a rush into another area. We have seen that in times gone past in our day. In those days there used to be a 12 o'clock knockoff for one hotel and 10 o'clock for another one. If we got there quickly, we got in the queue, knocked a few over and got up the front. That is where the problems were. There were staggered closing times and people wanted to go there. It is more so nowadays because of text messages and that sort of communication. In the past 20 years there were none of those sorts of problems. I am just wondering what consideration has been given to those areas now and in the future as well. I know the minister keeps saying that we are not going to have it, but —

**Mr T.K. Waldron:** I didn't say we are not going to have it. I said my intention is not to have midnights, and that if it warrants it, I would.

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**Mr M.P. MURRAY:** The minister's intention is not to use it, but looking at the minister's health, I do not know whether he will last another week, and it could cause a problem! Who knows?

**Mr T.K. Waldron:** Ha, ha!

**Mr M.P. MURRAY:** The minister knows what I am saying. Changes happen in political life very quickly, and someone else could be making these decisions. I am just wondering what was taken into account in the context of drafting this legislation.

**Mr T.K. WALDRON:** I thank the member for Collie–Preston. Just bear in mind that this legislation does only give us the head of power. But in giving the head of power, we have had the trial in Northbridge et cetera with lockouts in nightclubs. We had taken the workers into account. I understand that late-night workers like to go somewhere and have a drink. So, if we were going to look at lockouts, that is one of the matters we would take into account. I understand that point.

The member talked about the economics et cetera. Bear in mind that the regulatory gatekeeping unit has to go through that if we are going to make a regulation; so that has to happen. I understand the point about people going out at different times and wanting to get into other venues et cetera causing some problems. There is another way to look at that, of course, and it is something that I would also consider. If some people leave a venue and go to another venue where a lockout applies, they will then try to go somewhere else. But quite often people will take that opportunity to go home. That may have a positive effect and alleviate some of the problems. It is not proven and it is something of which I need to take further consideration. The government will do that if we are going to look at applying a lockout in any case.

**Mr M.P. MURRAY:** Just on that matter, I refer to the article in *The Sunday Times* headed “Bars breed biff”. I raise that article because to me the focus has been fairly pointed. The minister has said himself that the legislation is not aimed at Northbridge entirely, but we have seen some change in trends. The focus is still on hotels and nightclubs. There are some statistics in the article by Nicole Cox, which states —

A quarter of small-bar licences, which were introduced in 2007 to reinvigorate Perth, have been approved for the CBD.

That certainly worked. It continues —

Police say the touted plan for “low-key, relaxed, lounge-chair bars” is a farce, ...

**Mr T.K. Waldron:** I don't agree with that.

**Mr M.P. MURRAY:** The minister had better talk to the police; they are saying that. The article continues —

Police laid 401 assault charges in Perth last year compared with 207 in Northbridge.

Maybe that is because of stronger policing in some areas and not in others; I do not know. But those figures would certainly give me some concerns that the focus is not spread far enough.

**Mr T.K. Waldron:** It could be.

**Mr M.P. MURRAY:** I know what the minister is going to say, but, really, a lot of this has come about because of previous antisocial behaviour in the Northbridge area, although other statistics have been read out on how some of that has been cleaned up and tidied up. I just see that a swing may be happening, but the minister is saying he does not believe it. I was certainly shocked to read those figures because I did not believe it either.

**Mr T.K. Waldron:** It could probably happen on an isolated occasion. I think that when the member for Kwinana spoke during the second reading debate he referred to being in a small bar where a situation had developed. I am not saying it cannot, and, obviously, if it was the situation that that was developing regularly, then something would have to be done about that.

**Mr M.P. MURRAY:** But during the drafting of this legislation while these statistics have been coming out, what collection of statistics has been done around small bars and bottle shops, which seem to be nonexistent as far as this legislation is concerned? We sometimes see three bottle shops around a supermarket. I have heard grievances in this place about how come we are getting so many bottle shops, and yet the pressure seems to be on the small bars. During my previous contribution I referred to the amount of alcohol that is consumed at home before people go out, and again, today, I asked some young people whether lockouts would change their attitude as to what time they go out. They said it would not, because cost is the reason they drink at home before they go out. I was hoping that maybe the answer would have been the other way, and they would have gone out earlier and gone home earlier because of lockouts, but that was certainly not the answer from that group I asked today. What has been the consideration and engagement of younger people? We have talked about the Bradley Woods, we have talked about the BIG Ns, but I have not heard about any engagement with young people.

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**Mr T.K. WALDRON:** Member, there were quite a few things there. Firstly, it is not just about Northbridge; there is Leederville, Subiaco and Fremantle, and some of our country towns have these issues at times. On the small bars, I read that article: as I said, there can be issues in small bars. I have not heard of many, and I was surprised at that. I just wonder what was behind that. I paid the previous minister credit the other day because I think small bar licences were a great innovation and I think we should continue to cultivate that type of drinking environment—I certainly do. I am just trying to think of the last part that the member was talking about; there were a few other things.

**Mr M.P. Murray:** About consultation.

**Mr T.K. WALDRON:** Yes, consultation with kids.

**Mr M.P. Murray:** With younger people.

**Mr T.K. WALDRON:** I have an involvement in sport and recreation with the Willetton club.

**Mr M.P. Murray:** They are all the health freaks; they don't get out on the piss on Saturday nights.

**Mr T.K. WALDRON:** I have also got four daughters, and they have mates. I coach, and I used to go out until quite late to Northbridge with my cricketers.

**Mr M.P. Murray:** You wouldn't get a game in my team if you'd been drinking!

**Mr T.K. WALDRON:** I am actually reasonably contemporary. Quite honestly, when I spoke to them they initially asked what lockouts meant, and once I explained it to them, I think they understood it. Some kids will say, "I always want to be able to go out as late as I can", but they also want to be safe. We tend to underestimate our kids. Most of the kids today—not all of them—will go out and they will have a designated driver; they want to be safe. I have been to Northbridge and those pubs that the member talked about, where they have the machines et cetera, and quite a lot of young people have said to me that they actually like going in there because they feel safer.

Look, we can argue about the lockouts, but I just remind members that this gives us a head of power and we need to get more information before we apply it. The only time I think we would apply it is if we had a real situation when we thought it was needed. But it is there, and if I think it is in the best interests, then we will do it.

**Mr M. McGOWAN:** Just on that point: earlier in the debate the minister indicated that he would not be looking at applying them at midnight.

**Mr T.K. Waldron:** I have no intention.

**Mr M. McGOWAN:** The minister has no intention of applying them at midnight; he said he might consider one o'clock or two o'clock.

**Mr T.K. Waldron:** No, no. I said I would consider applying lockouts; I did not make a time. You tried to get me to say a time. I do not want to say a time because —

**Mr M. McGOWAN:** One o'clock is my memory of what the minister said, but I can check that tomorrow. In any event, the minister said he had no intention of applying them at midnight. As we raised, and as I heard on the ABC radio program, I think the one in Newcastle was put in place at three o'clock in the morning, and apparently, according to figures, the minister said it made a difference. I stand corrected, but that is my recollection of the conversation.

**Mr T.K. Waldron:** The result was a 34 per cent reduction in the number of assaults.

**Mr M. McGOWAN:** Was it at 3.00 am?

**Mr T.K. Waldron:** For 14 pubs in the Newcastle CBD, it went from 5.00 am to 3.00 am, so they took the restricted opening hours. For the lockout, there are different ones. It was 1.00 am and then it was relaxed to 1.30 am.

**Mr M. McGOWAN:** As the minister knows, a range of people have invested their money in bars, hotels, nightclubs and the like. Naturally, they watch these debates closely because they have the potential to impact on their livelihoods and their investments and so forth. The structure of the current provisions allows the minister to implement a lockout at 7.00 pm or 8.00 pm. If he really wanted to follow the member for Alfred Cove's strictures on these matters, it could even be implemented at 3.00 pm. It might satisfy the puritanical ideas of the member for Alfred Cove if everyone had to be inside the premises by 3.00 pm and no-one could go in after then. In any event, it seems to me that the minister has no intention of implementing a lockout at 8.00 pm, 9.00 pm, 10.00 pm, 11.00 pm or 12.00 am. If the minister cannot envisage any situation in which he would implement a lockout during any of those hours, will he not remove the uncertainty for the businesspeople of this state and say

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that he will not impose a lockout at any time before midnight? If that is not the minister's intention in any event, that would probably alleviate some of the angst that has been generated in regard to lockouts. That would solve part of the minister's problem and provide more certainty for people around Western Australia who run those types of businesses.

**Mr T.K. WALDRON:** In all honesty, although I praised the former government for its small bar legislation, I think what the member just said is ridiculous. There has been a ridiculous campaign. Statements have been made that people will get locked out of their country club at three in the afternoon. That is ridiculous.

**Mr M. McGowan:** I have never heard anyone say that.

**Mr T.K. WALDRON:** I was on the radio when it was said.

**Mr M. McGowan:** I was just making fun of the member for Alfred Cove.

**Mr T.K. WALDRON:** There has been a campaign that has caused a lot of angst. If someone recommended that a lockout be implemented at three o'clock in the afternoon, it would never get through. It would be disallowed by Parliament, and so it should be. That is ridiculous, and it is a silly argument. I stated in the second reading debate that I have no intention of introducing midnight lockouts, but I will consider lockouts if they will make a situation safer. That is what this is about. We could go to ridiculous extremes, but I think that is being ridiculous.

**Dr J.M. WOOLLARD:** As the member for Rockingham was going to misquote me, I thought it was time to put the facts on the record. I am very pleased that the Minister for Police has just come into the chamber because I would like to thank him and ask him to thank his police officers who accompanied the members for Albany, Southern River and me on Friday when we toured Northbridge. I wonder whether he is able to help the Minister for Racing and Gaming by providing the house with the statistics on the number of assaults that occur in areas such as Northbridge and the time when the majority of those types of assaults take place. If restrictions are to be imposed in any area, be it Northbridge, Fremantle or any others, I am sure that they would apply only during the times when there are problems. Perhaps the minister might be able to provide some details to the house of the problems and what are the busy times for the police. We know that on Friday night when we were there, there were four police teams—60 police officers, plus the horses and the cars. Goodness knows what the cost was to the community just for Friday night. Friday night was not a busy night. I wonder whether the minister is able to inform the house of the cost and when the busy hours are for the police on a Friday night and Saturday night.

**Mr T.K. WALDRON:** I think I have covered most of this, but I will just answer that question because we can go on and on with the same thing. The biggest problems occur in areas where the most people are. It can vary through areas and it can be different areas at different times, but probably from 11.00 pm through to 3.30 am is the busiest. However, there is also in other periods quite a lot of evidence of ongoing issues et cetera, which we will probably talk about a little bit later.

**Mr M. McGOWAN:** I want to respond to what the minister said before. I raised the issue of this being an open-ended clause. If one reads this clause, the minister can impose a lockout at any point in time that he likes on any venue he likes around Western Australia. Tongue in cheek, I suggested to the minister and to the member for Alfred Cove that she might want to impose a lockout at 3.00 pm. That was tongue in cheek; that was a joke.

**Mr T.K. Waldron:** I understand that.

**Mr M. McGOWAN:** The point I was making —

**Dr J.M. Woollard:** I did not do a tour at three o'clock in the afternoon, member for Rockingham. I did it at 11 o'clock at night until 3.00 am.

**Mr J.N. Hyde:** Three now. Are you sure it was three?

**Dr J.M. Woollard:** Two-thirty actually. I apologise. I misled the house!

**Mr M. McGOWAN:** They went out for a drink afterwards; that is why! Tongue in cheek, I suggested that hour, but the midnight point is serious, and that is the point I was trying to get through to the minister.

**Mr R.F. Johnson:** He is labouring it now.

**Mr M. McGOWAN:** The minister can come in with his low-pitched grunts and negative interjections —

**The SPEAKER:** Member for Rockingham, address the motion in front of the house.

**Mr M. McGOWAN:** — which I might tell him, from the Standing Committee on Procedure and Privileges, are all recorded, by the way, and he can hear them.

In any event, it is a reasonable point. If the minister says that he does not believe that a lockout should be imposed before 12 o'clock, why does he not put that in the legislation? What he is doing, and he has done all

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through this legislation, is to leave clauses in these laws that can be exploited and can be used in ways that the Parliament never intended. He has done that with the disorderly conduct and any written law provisions. If people infringe any written law, they can be banned from premises. Does the minister know how many laws there are out there, and how many thousands of infringements are actually possible under any written state or local government law? There are thousands upon thousands of them. For one of those, not on conviction but at the discretion of a relatively junior police officer, a person could be banned from going to a hotel. The minister does not think that an inspector is relatively junior.

**Mr T.K. Waldron:** Just to the member's point, you talked about the regulations and Parliament —

**Mr M. McGOWAN:** All I suggested to the minister was that he might want to remove some of the ambiguity, some of the doubt and some of the angst that is out there, probably from patrons as well as business owners. I have some respect for people who have invested their money to establish businesses. I put in place reforms to the liquor laws that were tenfold or twenty-fold what the minister is putting in place here, and established all sorts of businesses as a consequence. I have respect for those people who have invested their money. All I am suggesting to the minister is that he could provide a respectful and reasonable answer to why he may or may not put in place what he actually says he believes in, which is that he might not put these in place before midnight.

**Mr T.K. WALDRON:** I think I have already answered that question. The final test is this place. I am not being frivolous when I say that the final test is Parliament. Parliament has the right to disallow any regulations. I think a bit of commonsense should be applied in this case.

**Ms M.M. QUIRK:** I was not going to rise again, but I need to make a point after the minister's last comment that the final test is the Parliament. We are dealing with chalk and cheese. We are dealing with substantive legislation, and we have the time, as painstaking and tedious as the minister might think it is, to go through it clause by clause and to even talk about terms, and with regulations, which are not subject to the scrutiny of this house, other than that of the members of the Joint Standing Committee on Delegated Legislation, and the grounds for disallowance are incredibly narrow. For example, we are talking about the impacts of the application of these laws, which impacts go far beyond the criteria that the delegated legislation committee looks at in terms of disallowance. I have said to the Minister for Police that there is a bit of a tendency by this government to say, "Trust us; it's going in the regulations", but we do not have a chance to look at it again. This is about the intentions of the minister and his putting them on the record so that if there is some ambiguity down the track, we can go back and look at it and say that this was the legislative intent. It really is pretty glib to say that the regulations will get the same level of scrutiny as the substantive legislation. We all know that that is not the case.

**Mr T.K. WALDRON:** I think I have already answered this question. The fact is that any member of Parliament can move a disallowance motion. Also, this has to go through the regulatory gatekeeping unit, which assesses the impact on consumers and industry. If that is the concern, it has to go through that unit.

**Ms M.M. Quirk:** Will you table the report on that when it is done?

**Mr T.K. WALDRON:** It has not been done.

**Ms M.M. Quirk:** No; when it has been done, though.

**Mr T.K. WALDRON:** I will have to check whether I can do that.

**Mr W.J. JOHNSTON:** I want to seek some clarification. There has been some commentary in the media about live music venues. I wonder whether the minister can provide assurance to the live music industry that the problems that they foresee with lockouts will not occur.

The other issue I want to raise is: if the minister introduces a regulation imposing lockouts at, say, one o'clock in the morning, could an arrangement be made so that people can watch, for example, the world cup late at night? Western Australia seems to be the only place in the world where people cannot do this. If a game is on at eight o'clock in the morning in South Africa, that is two o'clock or whatever here. Will there be some arrangement to ensure that venues can take advantage of those one-off events so that there is a proper opportunity for Western Australians to enjoy themselves? The minister might know that there is a cafe in Victoria Park that gets absolutely chocker whenever there is a big soccer match because there is basically nowhere else in Perth that people can go to watch it. They can go to the Carbon Sports Bar or to a cafe in Victoria Park. It seems a bit strange. I wonder whether there is any way that the minister can assure us that, when these major sporting events happen around the world, people who want to get together to enjoy them can do so. Members will have seen the live site in Sydney during the world cup. Thousands of people were at the live site at two o'clock in the morning. This is contemporary entertainment. How will the regulations account for that modern style of sporting entertainment? I would appreciate the minister's comments on sporting entertainment and live music venues.



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**Mr T.K. WALDRON:** I am aware of how a lockout could affect the music industry. That issue would be taken into account before any decisions were made on particular venues. Secondly, that approach already applies to sporting events, and that will not change. During the last world cup, provisions were made for hotels to stay open later on specific nights. If there is a lockout in place, the hotel could be exempted at that time. That issue would be looked at at the time. I think the record shows that those things happen. It happened during the recent world cup in South Africa. Allowances were made for licence conditions that allowed venues to stay open while those games were on to cater for the public. I think that is a commonsense thing to do within reason, as long as it does not impose safety issues.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 35 put and passed.**

**Clause 36: Section 6 amended —**

**Mr T.K. WALDRON:** I move —

Page 37, line 21 — To delete “sale, supply or consumption of liquor” and substitute —

sale or supply of liquor is to, or the consumption of liquor is by, a person who is at least 18 years of age and that sale, supply or consumption

This is an amendment brought to me at the request of the member for Alfred Cove. It concerns limousines and small charter vehicles, so that the amended section 6 will now provide that, subject to subsection (2), the act will not apply when the sale or supply of liquor is to, or the consumption of liquor is by, a person who is at least 18 years of age and that sale, supply or consumption is exempted by the regulations from the application of the act. The proposal was to allow small charter vehicles and limousines to both sell alcohol and allow BYO alcohol without creating an offence, to allow people going to a wedding or a ball or whatever to have a drink in the vehicle. The member for Alfred Cove was concerned about passengers under the age of 18; as we all know, one has to be 18 to have a drink. This amendment, which the government has agreed to, will confirm that people under the age of 18 will not be able to have alcohol supplied to them or consume alcohol. It is just to clarify that point.

**Mr M. McGOWAN:** Is it not already an offence to sell or supply liquor to someone under the age of 18? Are we not once again creating an offence on top of an offence? This is the clause that deals with limousines being able to provide alcohol, and I agree with that; I think it is a good amendment.

**Mr T.K. WALDRON:** I thought there would be no problem, because liquor cannot be supplied to someone under the age of 18, but when the vehicles are exempted from the act, everything is exempted; therefore, we had to include this amendment so that people under the age of 18 could not consume alcohol in these vehicles. If we exempt it, we exempt the whole act; that is correct. It was a technical thing. We put that in to satisfy and make it clear. We received advice from Parliamentary Counsel tonight to make sure that was right. There was an issue in there in exempting, which we all understood, and I think we addressed in the second reading speech that there was no need, but when we exempt it being an offence to consume alcohol in these vehicles, we exempt everything from the act.

**Mr M. McGowan:** Does that mean every other regulatory provision in the act that would otherwise apply to a limousine no longer applies?

**Mr T.K. WALDRON:** No.

**Mr M. McGOWAN:** Why is it that we need to put into the legislation 18-year-olds—because that apparently does not apply if we pull limousines out of the act—but every other regulatory provision in relation to the provision of alcohol, of which there is a book, does not also have to go into that clause?

**Mr T.K. WALDRON:** I am advised by Parliamentary Counsel that it is only this provision that exempts from the act. This is only to do with the consumption of alcohol —

**Mr M. McGowan:** Only the member for Alfred Cove picked this up?

**Mr T.K. WALDRON:** When the member for Alfred Cove raised the issue with us and we got advice, we then got advice that if we did exempt, we need to put this in.

**Mr J.N. HYDE:** Is this purely on this amendment? I foreshadow that I also have an amendment to clause 36. But we are now purely addressing this amazing anomaly. Can the minister confirm that this anomaly applies only to this section of the entire Liquor Control Act?

**Mr T.K. Waldron:** Yes.

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**Mr J.N. HYDE:** Nowhere else is there an exemption in the Liquor Control Act except for this? What is the definition of “small chartered vehicle”?

**Mr T.K. Waldron:** It comes under the transport regulations. I think it is 11 passengers. We are not sure; I will have to clarify that.

**Mr J.N. HYDE:** Does it only apply to landlocked vehicles? Does it apply to chartered vehicles going to Rottneet, or is it only land vehicles? Does it apply to aircraft?

**Mr T.K. Waldron:** We are yet to write the regulation. The intention is that it will be small chartered vehicles and limousines.

**Mr M. McGOWAN:** Whilst the member for Perth sorts out his amendment in relation to this clause, I am interested in this provision as to what sorts of vehicles it may well apply to. Does it apply to the veritable footy club where a bunch of fellows from the country are coming to the city and want to drink alcohol on the bus, which they do—no matter what the law might say that is what they are going to do—or does it just apply to limousines; people off to a wedding or to a twenty-first birthday? What sorts of vehicles does it apply to?

**Mr T.K. Waldron:** I was correct when I answered the first time—the definition of small chartered vehicle is a vehicle capable of carrying 11 or fewer passengers excluding the driver.

**Mr M. McGOWAN:** If a bus was full of footy players on their way from Albany to Perth, all of whom are over 18 and want to drink alcohol, is that unlawful?

**Mr T.K. Waldron:** I will make a commitment now that in the regulations this will not apply to buses. This is intended for small chartered vehicles. Lots of members of Parliament have been lobbied about this, including me, and I think we all agreed this was a good idea. I will make sure the regulations will exclude buses.

**Mr M. McGOWAN:** I am not sure I am arguing for that. I am suggesting to the minister that I am not exactly sure that people having a drink on a bus on their way from or to a footy game—probably from a footy game; it depends whether they are playing or not—should be unlawful. Otherwise, we are criminalising behaviour that happens every weekend. I am interested in why the minister would be so keen to criminalise that behaviour if it is not currently criminal.

**Mr T.K. WALDRON:** It is already an offence to drink in a vehicle. I am trying to bring this in for the small charter industry when people are taken to a special event. We have probably all been on a footy charter bus, but this does not apply to that. I have done this specifically for small chartered vehicles, because a proposal was put to me, and I think it is a good amendment, because it is in a smaller area and does not involve a big load. It is mainly for chartered vehicles carrying people to balls, dances, weddings et cetera. I can stipulate that in the regulation.

**Mr P.B. Watson:** What about party buses? Police were saying they get party buses coming in and creating all sorts of havoc.

**Mr T.K. WALDRON:** That is exactly why I am making a commitment not to include buses in this amendment; the commitment is for small chartered vehicles only.

**Mr P.B. Watson:** The police are saying that party buses are a problem.

**Mr T.K. WALDRON:** They are a problem at the time; there is no doubt about it, but it is already unlawful.

**Mr M.P. MURRAY:** This is one that has caught me by surprise, and I would like to explore it a bit further. The minister has said it is illegal to drink on buses. But it is common practice.

**Mr T.K. Waldron:** It is illegal to drink in a vehicle on a road.

**Mr M.P. MURRAY:** In probably another 10 years when I want to cruise around the wine country and have a sip between one place and another—let us say an 18-seater and not a 50-seater bus with a hose out the back—will it be illegal?

**Mr T.K. Waldron:** It is illegal now.

**Mr M.P. MURRAY:** So some of those wine tour buses and party buses probably have been operating illegally?

**Mr T.K. Waldron:** Unless they have a specific licence to sell liquor. This clause will allow for BYO licences for small chartered vehicles.

**Mr M.P. MURRAY:** I understand that, but the minister brought another area into it.

**Mr T.K. Waldron:** I did not bring it in; that is what applies now.

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**Mr M.P. MURRAY:** I should have been in jail years ago, if one looks at it that way. I am a bit gobsmacked to say the least about that ruling. Why would the minister not look at a licensing system to provide for, say, those people going from Collie to the Ferguson Valley? It is 50 kays and they do not want to drive, which is one of the things we must remember, but they want to go down there, have a drink and then come back. It is a social afternoon, and one would not call them drunks or that sort of thing. Why has this legislation not picked that up so that the driver of the bus could get a permit to do that? I understand that now, but I thought it was the other way around; I thought it was legal.

**Mr T.K. Waldron:** They have the right to apply for a licence now.

**Mr M.P. MURRAY:** This is to drink on the bus.

**Mr T.K. Waldron:** Yes.

**Mr M.P. MURRAY:** I have never heard of it.

**Mr T.K. Waldron:** It is the same with boats and aircraft. This clause will allow small chartered vehicles to have BYO.

**Mr M.P. MURRAY:** I would have thought the minister would have picked up the lot.

**Mr T.K. Waldron:** There are issues sometimes with buses, as the member said.

**Amendment (deletion of words) put and passed.**

**Mr J.N. HYDE:** As foreshadowed, the minister discussed with me the issue of the Jazz Cellar in Mt Hawthorn. We both sought advice from Barry Sargeant, and his advice was that if the government desired, this was the appropriate place for such an amendment. I thank the minister for sending me a lengthy letter explaining that perhaps in the future we could look at amending the Liquor Control Act to allow for the situation of the Jazz Cellar, which is a dedicated arts venue; it has 100 patrons and has existed de facto as a BYO liquor place. In the same way that chartered vehicles technically cannot have BYO liquor, the Jazz Cellar cannot have BYO liquor. The opposition has just supported the amendment for chartered vehicles and we now request that the minister agrees to my amendment. I move —

To insert after the time the word “consumption” appears in the amendment moved by the minister —  
and small arts and cultural venues catering for under 120 patrons

It would then—as the minister has illustrated throughout this bill—be up to the minister through the regulations to approve it.

**The SPEAKER:** Member, before you go any further, it would be to your advantage and also other members, if you could sign that and we could provide copies to those in the house who want a copy.

**Mr J.N. HYDE:** This would certainly be, as the minister is aware of debate on this matter, the only instance that this has come up; it concerns the Jazz Cellar, and again, it provides the provision through the minister through regulations. The minister may well decide for some reason that the Jazz Cellar is not appropriate for this. This is enabling legislation and, as we discussed with Barry Sargeant, this gives the minister the heads of agreement to deal with the situation of the Jazz Cellar and a small not-for-profit specific arts venue. It does not provide a way for commercial operators to get around a loophole in the future. I would argue that this amendment is very supportable. We have correctly identified a loophole for chartered vehicles, which are commercial operators. All we are asking is that for a not-for-profit dedicated arts venue that has similarly been caught out, we provide the ability for the minister to make an exception for it to be treated equally with a BYO arrangement.

**Mr T.K. WALDRON:** I thank the member for Perth for that. When the member raised with me the issue of the Jazz Cellar I thought that it was quite a reasonable issue to come to me about and I said that I would give it consideration. What we are doing with the small chartered vehicles actually, once again, gives us a head of power and therefore gives us the enabling legislation to look at what the member wants to do through regulation. I am happy to consider it; we do not need the amendment. I am happy to consider it because what we are doing gives the head of power. However, before we consider it, I need to examine the wider ramifications, such as precedent, and ensure that we are not setting something up that will cause areas that we are not aware of yet. I give the member my commitment to look at it, and if we feel that the ramifications will not be great and that it is a sensible thing to do, as with the smaller chartered vehicles, then we can do that by regulation. I give the member a commitment to have liquor licensing look at the ramifications and any concerns about precedent, and I will talk to the member in that process. Therefore, I will not accept this amendment because we do not need it, but I give the member that commitment. That covers it, I think. There is an opportunity to now do what the member wants to do through regulation. However, I do need to know because I do not want to do say, “Yes,

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we'll do that", and then find that there is a problem because I have not had a chance to look at the ramifications of it, but I give my word to do so.

**Mr J.N. HYDE:** With respect, I appreciate that the minister is giving us his word, but what are the wider ramifications for small chartered vehicles? We have just discovered with the minister that we are not sure whether the interpretation applies to —

**Mr T.K. Waldron:** We haven't put the regulation yet and I have just given you the definition of a small chartered vehicle—11 passengers—we have to put that in regulation.

**Mr J.N. HYDE:** All we are asking is that the minister will give a commitment to look at a regulation as per this amendment.

**Mr T.K. Waldron:** Yes we will, but I've got to be careful before I say, "Yes, we're going to do it"; I will look at the regulation because there might be unintended ramifications or precedents that I do not think are in the best interest but I am happy to discuss that with you and I will need to talk with the member to get the full information.

**Mr J.N. HYDE:** I appreciate the interjection but this is an issue I have raised on a number of occasions. I have been forced to draft an amendment because the minister's letter suggested we contact the officers. When we did contact the officers, it was not as reassuring as the minister has continued to tell me and is telling me tonight.

**Mr T.K. Waldron:** That was because there was no amendment. We now have the amendment that will enable us to do it. Before we could not do that and we could not do the small chartered vehicles. We have now passed that amendment and the deputy director of liquor licensing is here telling me that.

**Mr J.N. HYDE:** We are taking the minister at his word and praying and hoping he will not be duded in cabinet and replaced by the member for Vasse or someone else next week and we then find that this guarantee is out the window.

**Mr T.K. Waldron:** This amendment will give us the power to make the regulation. I am not saying we will make the regulation, but we will give it our full consideration. If there are no issues with it and it is like the situation with the small chartered vehicles, I think, "Why should we stop it?" I will do it.

**Mr J.N. HYDE:** The minister has committed tonight that he will enact the regulation for small chartered vehicles. So if he is satisfied that a small chartered vehicle, despite all the scenarios —

**Mr T.K. Waldron:** We have done a lot of work on that over the past 18 months. We have not done the work on the jazz club. That is all I am saying.

**Mr J.N. HYDE:** That is probably because it has been operating for 15 years and there are no problems with it.

**Mr T.K. Waldron:** That is good if there are no problems.

**Mr J.N. HYDE:** With the minister's reassurance, I am a trusting man of a Dongolocking person such as himself, both of us having attended BYO events at the Dongolocking Hall on a number of occasions, although I am unsure whether they were licensed. I take him at his word and his reassurance that he will give equal consideration now that the government has passed this amendment.

**The SPEAKER:** Under the circumstances, member for Perth, it would be best to seek leave to withdraw your amendment in light of the amendment in front of the house at the moment.

**Mr J.N. HYDE:** I therefore seek leave to withdraw my amendment.

**Amendment on the amendment, by leave, withdrawn.**

**Amendment (insertion of words) put and passed.**

**Clause, as amended, put and passed.**

**Clauses 37 to 43 put and passed.**

**Clause 44: Section 64 amended —**

**Mr M.P. MURRAY:** I move —

Page 42, after line 28 — To insert —

(b) after paragraph (gb) insert:

(ha) impose restrictions on the type of drinking vessel permitted at the licensed premises; or

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I know the minister has told me previously that he can restrict and change drinking vessels at licensed venues through regulation. However, I believe it should be included in this bill because it must be up-front. In recent times we have seen horrific injuries around the city, certainly in country areas, including my town, where glasses have been used as weapons. We now have different types of glasses that can be used. The latest ones are something I am quite keen on. We have talked about polycarbonate glasses. We have also talked about other types of glasses that shatter. These glasses feel like glass and they look like glass, but they are like windscreen glass, because when they break, they shatter into very small fragments. That means that they do not break into the sharp, jagged edges that have been used against the people we have seen in some of the photos, who have been scarred for life, not only physically but also mentally, and who have to carry that forever and a day. I am sure many members in this house have seen those horrific photos. We have also seen the lack of concern by a person who has committed one of these offences. We have seen the video footage that has been taken in many areas. There is a website that I was made aware of. It is a Facebook page about banning glasses in Western Australian nightclubs, and it has 2 758 fans. That is showing where we are heading with community concerns. There is a petition that goes with that. It also says—I cannot vouch for the accuracy of this—that as at Sunday, 5 September this year, there have been 69 glassings in Perth. That is 69 people who will carry scars forever. We need to look also at the community costs and the hospital costs that go with that. We can understand why these young people are concerned. We need to make sure that people are aware. I have heard the minister say that he is not going to have lockouts, but he wants to have the legislation to do that. This is very similar to what the minister has been arguing all night.

**Mr T.K. Waldron:** I did not say I was not going to have lockouts.

**Mr M.P. MURRAY:** Is the minister saying he is not going to have lockouts or he is going to have lockouts?

**Mr T.K. Waldron:** What I said is I have no intention of midnight lockouts, but I would consider other lockouts, if it is in the best interests.

**Mr M.P. MURRAY:** I think we have been duded, but anyway. What I am saying here is along the same lines as the minister argued earlier in the night and that he has discussed with us over quite a period of time. I am horrified to see photos of these people on a weekly basis. If we take these figures, it is more than on a weekly basis. It is nearly two people a week who are glassed. Why has there not been a change in the types of glasses that can be used? Let us put it up-front, and let us look at using it.

**Mr T.K. WALDRON:** I agree with the member about the shocking act of glassing. But this is already provided for in the act. I need the member to listen. The member is saying we need a regulation. It is already in the act. Legislative provision already exists in section 64(3)(e) of the act to limit the types of containers in which liquor may be sold. So I agree with what the member wants to do. But it is already in the act. The Director of Liquor Licensing can already impose conditions on licensees on a case-by-case basis regarding the types of containers in which liquor may be sold. It is not a regulation. It is in the act.

**Mr M. McGowan:** What section is that?

**Mr T.K. WALDRON:** It is section 64(3)(e). It is on page 91 of the blue bill. That limits the kinds of liquor that may be sold, the manner in which it is sold, and the number and types of containers in which liquor may be sold. It is a good amendment. But we do not need it, because it is already there. I have no problem with the amendment. It is fine. But it is already in the act, so there is no need for the amendment.

**Mr M.P. Murray:** Okay, I apologise. If that is the case, I have overlooked it.

**Mr T.K. WALDRON:** No, that is okay. I actually agree with what the member for Collie–Preston is trying to do. I am not arguing with the member at all; that is fine, but it is actually in the act. That is why the director general has the power now to deal with it on a case-by-case basis. He can already do that at sporting venues. One of the reasons the director has not done it is that there has not been a pattern of glassings in individual premises. I think that is the reason he has not banned glasses in a particular hotel. He may well do so if there is a pattern.

**Mr M.P. Murray:** He would have to agree that 69 glassings —

**Mr T.K. WALDRON:** There are glassings and glassings. The statistic of someone chucking and smashing a bottle is a statistic that the member may have been quoted. The member for Collie–Preston will get no argument from me on the seriousness of glassings. Quite a few groups are themselves putting in tempered glass. We are working with the Australian Hotels Association right now to work out the best type. There are different types. The member for Collie–Preston has presented some in this place. The AHA has presented some to me. The AHA is trying to work out the best type of tempered glass to use in those situations. What the member for Collie–Preston is trying to do is admirable, and if the power was not already in the act, I would accept his amendment.

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**Mr M. McGOWAN:** I want to speak to this amendment. I think the member for Collie–Preston has been guilty of raising this issue in advance of anyone else. Members would remember that about six months to a year ago the member for Collie–Preston brought into this house a range of different styles of drinking containers. He put this issue on the agenda before anyone else and said that some action needed to be taken in relation to glassings. Consequent to that, we have seen the issue grow in the public mind as a significant issue; we have seen the recent reaffirmation of the conviction of a young woman; we have all seen the video numerous times of a patron of a hotel being glassed; and we have seen and heard the statistics about many others suffering injuries caused by glass containers in hotels. The member for Collie–Preston has put this issue firmly and squarely on the agenda with an amendment designed perhaps to force the government into some sort of action.

Earlier we heard the minister say in the debate that he had to deal with the issue of lockouts. He said he was unconvinced that the processes and style of dealing with those issues in relation to lockouts were of any use at all. He said he had to take that into consideration and that he had a regulation-making capacity to deal with those issues; yet in the case of glassings in which people have been potentially blinded and disfigured for life, the minister has no intention of doing anything under his first piece of reform legislation in two years as Minister for Racing and Gaming. He has no intention of doing anything such as he did in the case of lockouts. If I were to ask anyone in the community and if I were to examine my own conscience, I would say that one of the biggest issues in the hotel and hospitality industry today is this issue; yet the minister is relying on a provision in the existing law, which in his defence he indicates appears not to be acted upon. I would say to the minister that we could amend this clause to toughen it up. The opposition is trying to get the minister to look at this issue of glassings with a little more urgency and a little more seriousness than he has looked at it today—I will look at the head bill—and consider whether this amendment is tougher than the provision currently contained in the act. It is obvious that until now the minister has done nothing about this issue and is doing nothing about it in this legislation.

**Mr T.K. WALDRON:** Firstly, I acknowledge that the member for Collie–Preston brought the issue of glassing forward quite some time ago, and I responded and I have always recognised him for that. I have spoken to him about that. I am very much aware of it, and I think everyone is aware that some nasty events have happened. The government's position is that across-the-board mandating is not the answer because there is a range of other potential weapons available in clubs and the pubs, such as barstools, dinner plates, and knives and forks, and stiletto heels have been used to pretty damaging effect. To lessen the impact on the enjoyment of all Western Australians, we have tried to target the troublemakers. That does not mean that we cannot be proactive in exploring matters, and that is what we are doing. If that was not in there, member, I would agree with the member's amendment, but the amendment does exactly the same as what is there. Well done on the amendment, and I acknowledge it and the member's work on it, and I am happy to continue to work with the member.

The director is able to place conditions now on venues. He has placed conditions on sporting venues et cetera, so he has actually used that power. Prohibition orders also help with this, so that people who glass others are charged under prohibition orders. A barring notice, which we talked about for a long time this evening, is one of the other measures that actually target the troublemakers and prevent them from getting to the stage of becoming people who actually get involved in glassing. There has been a voluntary approach by the industry, and so we are working with the industry to try to find the right type of tempered glass to apply. I think I will leave it at that. There is no need for this amendment, but I acknowledge the intention of the amendment.

**Mr M.P. MURRAY:** I thank the minister for that, but, I wonder whether the minister has had a look at the parliamentary inquiry that was held in Victoria that showed that glasses are now two to one the preferred weapon of attack over knives. Certainly, that has changed the laws over there, and they have imposed them in a lot stricter and harder fashion than we have here. It seems to me that the perception in Western Australia is that we are not doing enough. I hear what the minister is saying, but I do not think we can use the excuse that there is not one pattern anymore. I do not think we can have that excuse any longer. When we talk about changing the glassware, there is a perception that we are talking about flimsies; I have said before that we get them at the footy and when we grab them, they buckle and fall over and are not the best to drink from. We generally dribble most of it down our front.

**Mr P.B. Watson:** Speak for yourself!

**Mr M.P. MURRAY:** I am saying that a different type of glass is used in some of the upper-class bars in Melbourne now, and there is not a problem about that.

**Mr T.K. Waldron:** It is used here, too.

**Mr M.P. MURRAY:** Let us get a program in place. This is the time for a review to be done, and I, again, apologise for not picking that up in the bill itself.

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**Mr T.K. Waldron:** That's fine.

**Mr M.P. MURRAY:** I think we need a bit more pressure in those areas, because there have been 69 operations, 69 people who have been stitched up, and 69 people who are scarred for life. If that had happened in any other industry, we would be absolutely screaming. If we lost 69 fingers at work, we would have the workplace shut down.

**Mr T.K. Waldron:** Member, you will not get an argument from me. I hear what you are saying, and I think I have answered the question in the amendment. I take on board what you have said.

**Mr M.P. MURRAY:** Having said that, I seek leave to withdraw that amendment.

**Amendment, by leave, withdrawn.**

**Mr M.P. MURRAY:** I will leave it at that.

**Mr M. McGOWAN:** I have a further question on clause 44. Obviously, this clause has some relationship to glass. The minister said the government is working on it and looking at it, and all those sorts of things, but I am interested in the actual facts of the matter. We have all been to bars and pubs and so on at which bottled packaged liquor is sold. It is very hard to make those establishments use non-shatterable packaged liquor. If a person buys a bottle of Corona —

**Mr T.K. Waldron:** Member, I actually answered this question when you were talking up the back. I answered questions regarding the barring notices and the prohibition orders when you were chatting to the member for Collie—Preston.

**Mr M. McGOWAN:** The minister does not know what my question is. My question is: the minister has statistics on the 69 or so glassings that have taken place, but have the glassings been done by using bottles of packaged liquor, of which it is difficult to get the non-shatterable glass or plastic variety, or have they been done by using glasses—middy glasses or schooner glasses and the like? Obviously it is much easier to deal with schooner, wine and middy glasses, as opposed to bottled packaged liquor. If the minister has those statistics, I would have thought it would be relatively easy to work with the industry to phase out glass in the non-packaged —

**Mr T.K. Waldron:** That is what we are doing.

**Mr M. McGOWAN:** When will the government be phasing them out, and does the minister have those statistics?

**Mr T.K. WALDRON:** I do not have those statistics with me tonight. We must be careful with statistics because they include throwing bottles et cetera. As I understand it, the main problem is beer glasses. We are working with the Australian Hotels Association on that right now. As I have said, the Australian Leisure and Hospitality Group has already introduced some tempered glass into some of its premises, and I applaud the ALH for that. The AHA and I might not always agree, but we are working closely together on this. We are working with the industry to find a tempered glass that is not only reasonably economical, but also does not shatter. We are working with the AHA to do that, and the focus is on beer glasses. For instance, I went to Claremont Football Club after the WAFL grand final and the club was serving beer over the bar in plastic cups but stubbies could also be bought. I have learnt that the glasses are the main focus, and that is our main focus.

**Mr M. McGowan:** Do you have a time frame?

**Mr T.K. WALDRON:** No. Hopefully it will be soon. We are waiting on the AHA, frankly. That is my honest answer.

**Clause put and passed.**

Debate adjourned, on motion by **Mr R.F. Johnson (Leader of the House)**.