

LIQUOR CONTROL AMENDMENT (BANNED DRINKERS REGISTER) BILL 2023

Consideration in Detail

Resumed from 15 June.

Clause 15: Part 5C inserted —

Debate was adjourned after the clause had been partly considered.

Mr P.J. RUNDLE: I refer to proposed section 152ZA. We were working through the online sales issues that I was concerned about in terms of the register. My first question is: if a person sells liquor online from another state to a banned individual in a banned drinkers register zone, how will a fine be enforced?

Mr R.R. WHITBY: I thank the member for the question. Anyone who sells alcohol in Western Australia must be licensed to sell alcohol in Western Australia. Therefore, if there is any contravention, a fine will be issued. Commercial operators will be expected to pay a fine. If they refuse for some reason, the department will take legal action against them.

Mr P.J. RUNDLE: In relation to the online sales, the minister said last week that there is a phone number that people can call or some sort of temporary arrangement in case the system is not fully in place. Could the minister enlighten me on that again?

Mr R.R. WHITBY: The agency is creating an online portal for the BDR. If that is not operating when these new laws take effect, the seller will be able to contact the agency directly to ascertain whether a purchaser is on the banned list.

Mr P.J. RUNDLE: An online portal is being created. How long does the minister foresee that it will take before the online portal is operational, and what is the exact arrangement in the interim?

Mr R.R. WHITBY: The expectation is that the portal will be operating on the enactment of these regulations. If that is not the case, the seller will be able to contact the agency.

Mr P.J. RUNDLE: How does the government plan to advertise that? Will it be circulated widely amongst the whole industry?

Mr R.R. WHITBY: A comprehensive campaign will reach out to licensees and the industry more generally. Peak bodies are also being contacted and this information is being given to them to pass on to members. A packaged seller who uses an online platform to sell into Western Australia, perhaps from interstate, would be part of Retail Drinks Australia, which is the peak group for online sellers of alcohol. That peak body will provide information to its membership. Comparable interstate regulators have obviously been made aware of the changes in Western Australia and we will make that information available to other jurisdictions as well.

Mr P.J. RUNDLE: I want to go back to the issue of fines enforcement for interstate online retailers. The minister said that such a fine would be enforced. They would not have a licence under the WA system, so how could the fine be enforced? Would we not need federal legislation or something to that effect?

Mr R.R. WHITBY: I thank the member for the question. As I said before, any retailer who wishes to sell alcohol in Western Australia must be licensed. If an interstate company sells alcohol online—it might be one of the big companies—it still needs to be licensed to sell alcohol in Western Australia. There is no way that anyone can legally sell alcohol in Western Australia without having a Western Australian licence. That ranges from the big operators to a small boutique winery in the Barossa Valley, for instance. This is a standard requirement.

Mr P.J. RUNDLE: That is an interesting element. I was not aware of that. The minister has confirmed, with absolute clarity, that every seller of online alcohol into Western Australia, whether it be a boutique wine company in the Barossa Valley or Dan Murphy's over east, has a WA liquor licence.

Mr R.R. WHITBY: I am confirming—it is a minor point—that if they are intending to sell into Western Australia, and if they do sell into Western Australia, yes, they are required to be licensed to do so in Western Australia.

Mr P.J. RUNDLE: Is the minister confident that there will not be any sorts of loopholes? We are putting a lot of effort into our local packaged-liquor outlets. I just worry. I saw it during the COVID pandemic when a general store in Frankland was not allowed to sell alcohol. It had a licence, but it was not allowed to sell alcohol. But it was also an Australia Post outlet and someone could come in and pick up 12 bottles from the eastern states that had been sold online to them. It was a catch 22. These are the sorts of things that happen and somehow liquor from our eastern states outlets sometimes manages to find its way through. I want absolute clarity that the department has covered every angle for online retail sales.

Mr R.R. WHITBY: This amendment to the act does not introduce the requirement for an outlet to be licensed to sell liquor into Western Australia. That already exists. That has existed for many, many years. Any winery or liquor retailer that wants to sell in Western Australia has always been required to be licensed to do so in Western Australia. It is a requirement now and it will be a requirement in the future. This legislation will not change that at all. The

requirement under these changes is that if someone is selling liquor to someone who resides and has their address in one of the BDR regions, they have an obligation to check the register. We hope it will be online and up and running at the time. If not, the retailer will have an obligation to contact the department to make sure that the person to whom they are selling is not someone on the banned drinkers register. The requirement to be licensed to sell alcohol is not being changed in any way by this legislation. It has always been a requirement. I think the other states, in a reciprocal nature, require WA producers and retailers to be licensed to sell into their jurisdictions. That is certainly our arrangement, and it is often replicated in other jurisdictions.

Mr P.J. RUNDLE: I will just move on to a further question. Under proposed section 152ZA(3), if someone sells alcohol to someone on the banned drinkers register, they will have a defence if they have taken reasonable steps. How will they demonstrate that the machine did not work, or will there be some other defence? Is the government going to accept a statutory declaration or something of that order? How will they prove that the machine was out of action at the time?

Mr R.R. WHITBY: I think it is important to note that the department would take a sensible approach to this situation. If the unit doing the scanning breaks down or if it is not operating, the agency will know that because no data would be coming through the line, if you like. Technically, there will be an awareness of when these scanning machines are operating and when they are not. If the person said the machine was not operating and it was not, there will be evidence of that. It is important to note also that if a licensee has any issues with a machine, they can immediately call the agency and a new replacement machine will be made available.

The approach to compliance would be commonsense. We are not out to catch people who are in good faith trying to do the right thing. That is always the approach of the agency. However, there is a mandatory requirement that the scanners are used and IDs are scanned. We are concerned about someone deliberately defying their obligations under this new legislation. The breakdown of a machine or some other technical issue that prevented a scan would not bring an infringement on a licensee. There would be a very reasonable approach and an investigation, if one was required, to ascertain what was going on. But, as I said, if it is a data issue, it is easy and very quick to identify because the data stream would not be coming through at a particular time and there would be a record of that.

Mr P.J. RUNDLE: Going back to the old question about someone who comes in who is on the banned drinkers register but uses his brother's ID, is it a defence if a licensee thought they looked pretty similar but it was his brother? Do they sign a stat dec? What is the defence for the licensee?

Mr R.R. WHITBY: I think we touched on this last time at the consideration in detail stage. It is a judgement of a reasonable person. If they made a judgement in good faith that they believed that that was the right identity card of that person, there would be no offence. It is about knowingly acting against the intent of the law, not a mistaken belief. I think we gave an example the other time that if the person before them were bald and produced an ID card of someone with an afro, they might stop and investigate further, but it is all about someone knowingly accepting an ID that is clearly not the ID of the person in front of them. If someone was under the belief that it was the same person, that would not constitute an offence.

Mr P.J. RUNDLE: I will move on to proposed section 152ZB on page 38. This applies to, say, a post office with online sales. Someone comes in to pick up their carton of alcohol. Will there be a takeaway alcohol management system machine at a local post office to identify someone who might be on the BDR?

Mr R.R. WHITBY: No, there would not be a scanning machine at the delivery point for the online sale because the point of confirmation has to be at the point of sale. We have to remember that if the eastern states-based retailer, for instance, has made the sale, it will be their obligation either to check on the online portal, which is the way it will be operating, or if there is a short time of transition, to contact the agency. In any case, the seller in the eastern states would be required to ascertain that the identity of the person they are supplying to is not on the banned drinkers register. The liquor would then be sent over. At the point of collection at the post office, Australia Post's obligation is not to check any BDR register, but in the normal course of things, if a person wants to receive a package at the post office, they have to show an ID to show who is getting the goods.

Mr P.J. RUNDLE: When the minister refers to the eastern states retailers and their licences, which he confirmed earlier, is that category of licence exactly the same as that of Western Australian online retailers and so forth? Is there just one category of licence?

Mr R.R. WHITBY: There is no new category for an online licence to sell online, so it would fit under the current licence arrangements. If it were a small producer or a winery, that licence allows it to sell online. A packaged-liquor outlet can also choose to sell online as long as it has a licence that fits its particular category.

Mr P.J. RUNDLE: I go back to the post office. I understand what the minister is saying about the fact that the responsibility lies back at the retailer over east. Is there any responsibility for Australia Post to make sure that the person is aged over 18 years, not intoxicated and whatever, or do they just say, "Here's the carton"?

Mr R.R. WHITBY: There are already standing arrangements and requirements for the online delivery of alcohol that are separate from what we are talking about today. In my view, any deliverer of alcohol, whether it is Australia Post or some other parcel service, is obliged to ensure that the person receiving the alcohol is over 18 years and not intoxicated. Those requirements exist. This is not part of this bill; it is part of the existing obligations of people delivering alcohol to the public.

Mr P.J. RUNDLE: To tidy up this area, can the minister tell us how many online vendors are outside the state that currently sell into Western Australia?

Mr R.R. WHITBY: The department does not collect that data. It collects wholesale data but not data from retailers and licensees that might be located interstate. The member would appreciate that people go online to Dan Murphy's, Jimmy Brings, wine retailers, small boutique wineries in the Hunter Valley and so on. We are talking about all those possibilities, but we do not have that particular data. It is not recorded.

Mr P.J. RUNDLE: Does the minister have the data, though, of how many liquor licences are registered to online sellers from outside Western Australia?

Mr R.R. WHITBY: We are obviously aware of whom we licence in the various categories of supplying alcohol in Western Australia. We do not have any information in front of us about how many of those have an interstate address. We are certainly aware of all our licensees.

Mr P.J. RUNDLE: I am a little bit concerned about the fact that the minister does not have that information on hand. Could it be supplied as supplementary information? There must be a way to ascertain how many people have a licence to sell liquor online.

Mr R.R. WHITBY: I wonder about the relevance of that information. This clause deals with ensuring that packaged liquor is not sold to someone in a BDR area. Obviously, we are aware of people who have a licence, and we could work out who has a non-Western Australian address, but we do not know whether any of those actually will be selling or have sold to people in a BDR area. I am trying to work out what the linkage is to this clause.

Mr P.J. RUNDLE: The relevance is that people on the BDR register quite often find loopholes. As I have said before, I have seen this with other examples during the COVID period. I would have thought that information would be fairly quick and easy to gather, considering that the department has a register of liquor licences of people within and outside WA.

Mr R.R. WHITBY: I go back to the core of what this clause is about. This clause is about ensuring that packaged-liquor retailers do not sell to someone who is registered on the BDR. There is the obligation for them to check this if they are selling to someone with a delivery address inside a BDR area. It also involves issues of secondary supply on the ground. If someone were to purchase alcohol in a community and then onsell it, that would also be an offence. These offences will be pursued. There is a clear obligation for onsellers to ensure that they make the necessary checks when required if they are selling into a BDR area. I am not sure that I can identify one issue about who is licensed, where they are and possible loopholes. The member gave an example about restrictions in place during COVID. In my memory, the requirement was that liquor stores in Western Australia be closed, so I am not sure that the Western Australian government had any authority over the closure of liquor stores outside of Western Australia. I do not think that information directly pertains to working out the issue here. The issue is very clear: it is about ensuring that suppliers do not supply to people on the banned drinkers register, and there is an obligation to check the register if they are supplying into a BDR region in Western Australia.

Mr P.J. RUNDLE: As the minister said, it is about relevance and the offence of supplying packaged liquor to the banned drinker, which is referred to in this clause. I would have thought there would have been easily obtainable information, a breakdown, just so we can get a handle on what part of the market we are dealing with with those online sales. As I said, the relevance is that people try to find loopholes, and that is exactly what happens when this type of thing comes along. Ninety-five per cent of the market might be in WA and five per cent in the eastern states. I would have thought the minister would be able to get that information off his database without much trouble at all.

Mr R.R. WHITBY: I think the member is trying to work out what proportion of the market might come from the eastern states. Again, that is not directly related to this clause. As I said earlier, the department does not keep records of retail sales, so there is no way of knowing how much a big licensed outfit in the eastern states sells in Western Australia. Also, a boutique winery somewhere might be licensed for the opportunity to make a sale but has never made a sale. We know that a certain number of licences are held outside of Western Australia to sell in Western Australia, but we do not know how active they are or when they make a sale. We are interested in making sure that they are licensed and obey the law, and through this clause we are telling them that we have a BDR that is mandatory and they are obliged when selling in certain parts of Western Australia with BDRs in effect to ensure they are not selling to someone on that list. I am not sure that any prior history, numbers or statistics on licence numbers outside the state have any bearing here. Certainly, no retail numbers can say that simply because a licence exists a sale has been made or how frequent the sales might be.

Mr P.J. RUNDLE: I hear what the minister is saying. I know there is no way to track the volume of sales. I am really talking about the actual number of interstate online licensed operators. I am chasing a list of those.

Point of Order

Mr D.A.E. SCAIFE: I draw the Acting Speaker's attention to standing order 179, which requires debate to be relevant to the clause, and it states that no general debate will take place on any clause. This has been going around and around in circles, it is repetitious, and I ask a ruling to be made on that point of order.

The ACTING SPEAKER (Ms R.S. Stephens): Member for Cockburn, I do not take that as a point of order. The member for Roe can move on if he likes. We have 34 clauses to get through.

Debate Resumed

Mr R.R. WHITBY: I will briefly respond to the question. I thank the member for Cockburn for noting the issue of relevance. The member for Roe again mentioned his desire to know the licensees engaged in online sales. Again, it is not about a category of any licence. Operators in the eastern states can have licences to be small producers or packaged liquor sellers or even a tavern, and they may choose at some point to sell liquor online. There is no way of knowing whether those licensees have ever engaged in online sales. Again, this is about sales made in Western Australia. They can be local sales in a BDR area or they can come from somewhere else, but the obligation is all about checking to see whether someone is on the register.

Mr P.J. RUNDLE: I note the member for Cockburn's point of order, but this could be wrapped up by the minister in 30 seconds if he gave us a breakdown now or later today of how many licensees there are in Western Australia and outside of Western Australia. I would not have thought that would be much of a challenge. I am not talking about volume or anything else. There must be a breakdown in the database of liquor licences outside Western Australia.

Point of Order

Mr D.A.E. SCAIFE: I raise a point of order again on relevance. This is not an opportunity for the member for Roe to enter into debate about a point of order that the Acting Speaker has already ruled on. Again, standing order 179 is very clear: no general debate will take place on any clause. That relates to consideration in detail.

The ACTING SPEAKER (Ms R.S. Stephens): If the member for Roe can just refer his questions to the clause we are on, which is clause 15. The minister can decide to answer.

Debate Resumed

Mr R.R. WHITBY: I can respond further by clarifying why this information is not relevant. This is about licensing an activity rather than a location, so it is quite possible that there could be an operator licensed with a head office in Perth or Margaret River who might have some ancillary business where the alcohol comes from. The business might be licensed and based in Western Australia and it might decide to supply alcohol from another state. Again, that renders information about the licence location totally irrelevant to this issue.

Mr P.J. RUNDLE: I express my concern, but I move on to the next proposed section 152ZC on page 39 of the bill. My first question is: what is a prescribed person?

Mr R.R. WHITBY: I thank the member. Again, I think we covered this ground earlier, so just to clarify, we have already flagged that the prescribed officers would include medical practitioners and social workers who are recognised as such by membership of the Australian body representing social workers. There will also be the ability to further prescribe other officers at a later time. I think we discussed the issue of magistrates being a very good example of a prescribed officer who could request or begin the process of putting someone on the banned drinkers register.

Mr P.J. RUNDLE: I am trying to clarify in my head the issue of personal information confidentiality. The department put up posters in Carnarvon and the Gascoyne region that state that no personal details are recorded. How will this all blend in?

Mr R.R. WHITBY: The poster that the member showed us is an example of what the department has distributed to licensees and publican venues. The reference to data privacy relates to the person using their ID to purchase alcohol. That is a very clear message that we want to get out. It is very simple to understand. The machine will simply acknowledge whether the ID that is scanned onto it matches the identity of someone on the banned drinkers register. That is all it will do. It will not keep a record of the name or details of the person purchasing alcohol. It will simply identify whether that ID matches someone in the banned drinker database. That is it. The licensee or the publican will not keep a record of anyone's identity. Quite frankly, other than the obligation to make sure it is the identity of the person in front of them, there will be no other need to record or acknowledge that identity because the scanning machine will simply match the information.

Mr P.J. RUNDLE: I thank the minister for that explanation. We have already discussed the next stage of confidentiality. Assuming all those medical practitioners and social worker professionals keep their information

confidential, will there be any sort of exchange of confidential information between that category of prescribed persons and the police?

Mr R.R. WHITBY: Medical practitioners or social workers—or maybe, in the future, magistrates—would make an application to the director of Liquor Licensing that an individual could or should be placed on the banned drinkers register. Those are professional people who are already obliged to protect the privacy of their patients. Officers in the agency are also required to respect privacy. There will be some codes of behaviour for that information being held confidentially during the process of putting someone on the BDR.

Mr P.J. RUNDLE: What will be the pathway for a licensee to have a known troublemaker placed on the BDR?

Mr R.R. WHITBY: We might have touched on this briefly before. The current provisions allow publicans to take action and call the police if someone is problematic on their premises. If related to alcohol, the police would come along and make that judgement, remembering the dual pathways to putting people on the BDR through medical practitioners and social workers. Police can also make a judgement and, with the approval of a sergeant or higher, begin the process. It then will go to the Commissioner of Police or his delegate to work out whether that person should be on the BDR. There will be a pathway, if you like, for a publican to do it, although a publican would not be a prescribed person. In the normal course of handling difficult customers, there will be the avenue to seek police assistance. The police could then make a judgement about the impact of alcohol on that person and whether they make a good candidate for the BDR.

Mr P.J. RUNDLE: I refer to proposed section 152ZE, “Protection for disclosure in good faith”, which states —

- (1) Information may be disclosed under this Division despite any written law relating to confidentiality or secrecy.

...

- (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

Can the minister explain that to me? It is rather concerning.

Mr R.R. WHITBY: That part deals with the case, for example, of a general practitioner acts who in good faith and concern about the health and wellbeing of a person and passes information on to the director of Liquor Licensing to have that person put on the BDR. That GP will not be liable for action in terms of any privacy issue because this law will give an ability to medical practitioners and social workers to assist in identifying people who, for their own benefit, could and should be on the BDR. It means that they will be protected from any action in terms of a breach of privacy. Proposed section 152ZE states —

- (1) Information may be disclosed ... despite any written law relating to confidentiality or secrecy.
- (2) If information is disclosed under this Division in good faith —
 - (a) no civil or criminal liability is incurred ...
 - (b) the disclosure is not to be regarded as a breach of a duty of confidentiality or secrecy ...
 - (c) the disclosure is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

This will give comfort to professionals who want to be part of the solution for someone who has serious issues with alcohol abuse being referred to the BDR. They will be able to play their role in the same way that police will have the ability to play their role, and this will protect them from any liability when they do so in good faith.

Mr P.J. RUNDLE: For medical professionals, is the accountability to their profession or, in respect of the information they are using to put someone on the BDR, to the police and the director of Liquor Licensing?

Mr R.R. WHITBY: I would have thought that a medical professional would believe they were acting in the best interests of their patients when they do this. It is usually in cases in which individuals are at serious personal risk of harm to themselves or others, so a medical professional would make that judgement and disclose that information to the director of Liquor Licensing, who would then be obliged to assess the information and ascertain whether it is an appropriate referral that should be approved or not. Again, this is about providing support and protection to medical professionals who, in the interests of their patients, identify someone who is seriously risking their health and wellbeing by coming into contact with alcohol and abusing alcohol. This is a private process—it is not broadcast to other patients and it is not announced publicly; it is a referral to the director of Liquor Licensing, and the DLL has an obligation to fairly assess the request and referral. There is also the issue of procedural fairness, which we have spoken about before. The individual has the right to appeal, and they have several layers of appeal rights if they are not satisfied with this process. This is about simply giving professional protection to medical professionals who are doing the right thing by referring a patient to the DLL.

Mr P.J. RUNDLE: I refer to proposed section 152ZI(2)(c)(ii) at the bottom of page 43 and the ID system. What measures will be taken to ensure that the person is the person on the ID provided to the remote retailer?

Mr R.R. WHITBY: This is about the obligation that currently exists for people to check the age and identification of someone under the requirements for the responsible service of alcohol.

Mr P.J. RUNDLE: I refer now to proposed section 152ZF, under “Division 8 — Miscellaneous”. I have a couple of questions on that proposed section in relation to the approved form of identification and the purchase of alcohol outside the region by people trying to work around the system. Can the minister comment on carriage limits coming into BDR regions?

Mr R.R. Whitby: Can the member identify a clause?

Mr P.J. RUNDLE: This is probably more of a general question in relation to identification and concerns about people coming from outside the region.

The ACTING SPEAKER (Ms R.S. Stephens): Minister, we are on page 41, I believe.

Mr P.J. RUNDLE: Yes, page 41. I might move to proposed section 152ZF(5) on page 42, which states, in part —

(5) Subsection (2) does not apply if —

(a) the Director has not provided the licensee with a way to access and use the ID system;

Can the minister explain that provision?

Mr R.R. WHITBY: That makes provision for the obligation on the director of Liquor Licensing to provide the means for the licensee to interrogate identities to reveal whether someone is on a BDR. It would usually be the provision of a scanning machine; I guess, if necessary, there would be online information or some other form of information, but for the purposes of what we are talking about, there is an obligation on the director of Liquor Licensing to ensure that licensees have the wherewithal, the technical ability, to be able to check IDs. That obligation or expectation is not on the licensee, but rather on the director of Liquor Licensing.

Mr P.J. RUNDLE: I thank the minister for that explanation. I have a further question on that. Once again, we have discussed this many times, but is there excess supply of those machines in each area, so that if one or a couple of them break down, there are replacement machines in each of the trial areas?

Mr R.R. WHITBY: That is a good point. As I said, currently all licensees in these areas have these machines because the BDR is already operating. It is correct that there is excess capacity in case of breakdowns. Indeed, the department has offices in these regions at which it keeps spare scanners. I do not have numbers for that, but I can assure the member that if one of them breaks down, there will be another one to take its place.

Mr P.J. RUNDLE: I move to proposed section 152ZI. If someone is on the banned drinkers register, how will the government stop them travelling out of their region to access alcohol?

Mr R.R. WHITBY: We cannot stop people accessing alcohol outside their region, short of putting a scanner in every outlet in the state, which would conceivably cost billions of dollars and would probably not be a good use of taxpayers’ money as opposed to using that amount of money on other ways of dealing with issues relating to alcohol. This is a targeted approach. If someone wanted to get into their car and drive to Perth, they would obviously not encounter any scanners in Perth. This is about dealing with people. It is fair to say that most of the issues that relate to the harm caused by alcohol occur in areas where BDRs have been introduced. No system is perfect, but we will have a big impact by making it harder to access alcohol by putting a barrier in place. This is part of a suite of tools that will be put in place to deal with this issue.

Mr P.J. RUNDLE: I hear what the minister is saying but, as he knows, someone on the banned drinkers register in Carnarvon could drive to Geraldton and fill up their car with alcohol. Has any thought been given to supplying any software, hardware or whatever it might be to identify people moving around the state?

Mr R.R. WHITBY: Although there is no restriction on someone who is on the BDR purchasing alcohol outside the BDR areas, as we discussed earlier, being in possession of alcohol is an offence. If someone on the BDR in a BDR region is in possession of liquor, they are committing an offence. Someone could not easily get around this issue by stocking up and moving a whole lot of liquor home; they would still be committing an offence under the legislation. We are working on carriage limits, which will restrict the amount of alcohol that individuals can move into BDR regions. Under this legislation, police will have the extra power to seize alcohol that someone on the BDR purchased outside their area, and destroy and dispose of it on the spot, as well as issue a fine.

Mr P.J. RUNDLE: I assume that the carriage limits will come under different legislation. Will they cross over with the BDR and enable police to dispose of that alcohol if it is carried in from another town? Will they also cover people who are not on the BDR from bringing in alcohol from other towns?

Mr R.R. WHITBY: Yes, indeed. As part of the suite of initiatives to deal with this issue, being mindful of people on the BDR having access to alcohol, we will be looking at carriage limits in these regions that will restrict not just people on the BDR but also everyone, including bootleggers who might come in and take advantage of the situation by supplying to anyone and not just people on the BDR. These restrictions will be part of the suite of measures used to tackle these issues in communities that are being hard hit by alcohol abuse.

Mr P.J. RUNDLE: Does the minister have any timetable on when those carriage limits will be worked out?

Mr R.R. WHITBY: Those arrangements are being worked on. They are not part of this legislation, which can proceed. We will continue to work on the carriage limits.

Mr P.J. RUNDLE: I refer to proposed section 152ZK, “Delegation by Commissioner of Police”. We have already covered this matter to some extent. If no police officer of the required rank is available in a town such as Gascoyne Junction—for instance, no sergeant is available; there might be a lower ranked police officer or, in some cases, no police officer—how will that work?

Mr R.R. WHITBY: This part of the legislation does not relate to that matter, but I will cover the member’s query because we have covered it already. In a small town where a sergeant might not be present, as we discussed earlier, higher ranked officers are often nearby. They do not have to be physically present; a local constable could refer this matter via email or phone call to a higher ranked officer elsewhere. It could go through the Liquor Enforcement Division in Perth. Support could be sought for that type of application to be dealt with by a sergeant or higher ranked officer in a range of ways.

Clause put and passed.

Clause 16: Section 155 amended —

Mr P.J. RUNDLE: I understand that a person on the BDR can drink in a licensed venue but that they cannot purchase takeaway liquor. Is that correct?

Mr R.R. WHITBY: If a person is subject to a banned drinker order for a three, six, nine or 12-month period, they can certainly go into a pub, like the member for Roe and I can, and have a drink at the bar. Experience has informed us that the issues are occurring with takeaway alcohol. In a licensed venue such as a pub, the responsible service of alcohol provisions kick in, and a licensee would be present, along with staff monitoring the area. If that person got out of control or had serious issues, the publican or staff could easily contact police.

People who are currently on the banned drinkers register, including self-referrals, are subject to prohibition notices or banning orders and the existing provisions prevent them from going into a licensed venue. If they are subject to a prohibition notice or a banned drinkers order, they have obviously behaved inappropriately and they cannot go into licensed premises. It is entirely the case that they were put on the BDR during the trial, and that is why they are on it now, so they still cannot go into a pub. This legislation will widen the intake of people going on the BDR to include people who are not subject to those barring notices or banning orders but who have behaved in a way that they should still be on the BDR. Those people can still go into a hotel and have a drink—in moderation, hopefully—and if that is not the situation, police will intervene and no doubt they will find themselves with further time on the BDR, as we discussed earlier.

Mr P.J. RUNDLE: Can the minister explain the provision in clause 16(1) for an unopened container of liquor in the person’s possession?

Debate interrupted, pursuant to standing orders.

[Continued on page 3323.]