

18 December 2015

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
BRISBANE QLD 4000

Email: [REDACTED]

Dear Sir/Madam

### **Tackling Alcohol-Fuelled Violence Legislation Amendment Bill 2015**

Thank you for the opportunity to comment on this legislation. Queensland Law Society appreciates being consulted in relation to this important reform.

The Society acknowledges the damage done to the community by alcohol-fuelled violence, and commends the government for prioritising this issue. I note that the Society's response has been compiled with the assistance of its Criminal Law, Corporations Law and Competition and Consumer Law committees.

At the outset I note that the Society acknowledges that the perpetrators of alcohol-fuelled violence should be adequately punished, and the Queensland Police Service be given sufficient power to investigate crimes of violence committed due to the overconsumption of alcohol.

However, the Society also notes that punishing these crimes is effectively treating the symptom, rather than the cause of the problem. Preventing the crime from occurring should be the government's priority. This must of necessity involve preventing consumers of alcohol from getting to a sufficient level of intoxication to allow the unthinking commission of violent crime.

In view of this, the Society is generally in favour of the preventative measures contained in the Bill, as they seek to limit excessive consumption of alcohol.

In relation to the specific provisions of the Bill, the Society makes the following comments:

#### **1. Amendments to the *Bail Act 1980***

The Society supports providing discretion to the court in relation to the imposition of a Drug and Alcohol Assessment Referral (DAAR) course as a bail condition, as opposed to making such a condition mandatory. However, in the Society's view consideration should be given as to whether or not the consent of the person requesting bail should be necessary when imposing a condition requiring the completion of a DAAR course.

Whilst the Society appreciates that the results of a course entered into voluntarily will likely be better than a course undertaken by mandate, the discretion to impose participation in a DAAR course affords the court an opportunity to ensure that an offender receives the treatment he or she needs.

In addition, the Society notes the recent – and commendable – focus on addressing issues of domestic violence. Anecdotal feedback from members suggests that domestic violence is often accompanied by drug and/or alcohol intoxication, and the Society submits that there would be utility in the *Bail Act* being amended to specify that perpetrators of domestic violence may also be the subject of a requirement to complete a DAAR course.

## **2. Amendment of the *Gaming Machines Act 1991***

The extension of gaming hours beyond the curfew imposed by this legislation on the consumption of alcohol does not appear to be within the remit of this enquiry. Whether or not a curfew should be imposed upon the hours in which people are allowed to gamble, and what that curfew should be, would in the Society's view best be determined by a specific enquiry into the effects of gambling, and which considered the evidence in relation to the harm minimisation effect of curfews on problem gamblers.

## **3. Amendment of the *Fair Trading Act 1989***

The Society supports the repeal of section 96 of the *Fair Trading Act 1989* relating to vicarious liability of directors. The Society submits that this will meet the policy objective of bringing the *Fair Trading Act 1989* in line with the broader Queensland policy, and other jurisdictions with respect to vicarious liability.

## **4. Amendment of the *Liquor Act 1992***

As noted earlier in the submission, the Society's position is that the priority for this legislative amendment should be the prevention of the occurrence of alcohol-fuelled violence. This necessarily involves preventing individuals from achieving a level of intoxication which is conducive to the commission of acts of violence. As a matter of logic, increasing controls at point of sale must be a part of this strategy.

The Society has a long held commitment to evidence-based policy, and therefore the Society's position is that any measures adopted in relation to the amendment of the *Liquor Act* should be supported by evidence of their effectiveness. Many amendments proposed in the bill rely heavily on the use of lock-outs, reduced trading hours and banning the sale or supply of particular alcoholic drinks. If there is evidence of the effectiveness of such measures, the Society supports them.

However, it is the Society's submission that the most effective way of controlling the consumption of alcohol is to control the purchase of alcohol. In view of this, the Society makes the following comments:

- Anecdotal reports suggest that the practice of "pre-loading" (consuming high levels of alcohol prior to attending licensed venues, in part to foil efforts on behalf of licensee to control alcohol consumption) is problematic for licensees and a significant contributing factor to alcohol-fuelled violence. In the circumstances, the control of the sale of take-away liquor, particularly from outlets in close proximity to entertainment precincts, should be considered.

## Tackling Alcohol-Fuelled Violence Legislation Amendment Bill 2015

- One method to achieve this would be to limit the trading hours of takeaway liquor outlets. Whilst this is currently done, it is possible for licensees to obtain exemptions which allow both early and late opening hours. Such limits may need to be the subject of further enquiry, although in the Society's view it is difficult to appreciate any justification for selling takeaway alcohol prior to 11am.

The bill has the laudable aim of reducing alcohol-fuelled violence through restricting access to alcohol and making rapid consumption of alcohol difficult. It is the Society's view that these efforts will be more successful if people guilty of alcohol-fuelled violence are also afforded opportunities for rehabilitation, whether incarcerated or not. Although perhaps beyond the remit of this bill, it is vital to the success of the Bill that the capacity of the corrective services regime to facilitate rehabilitation is increased. The Society would welcome the opportunity to discuss this further should the government be so minded.

Again, on behalf of the Society I thank you for the opportunity to comment on this Bill, and contribute to these important reforms. Should you wish to discuss these issues further, please do not hesitate to contact me or the Society's Senior Policy Advisor, Shane Budden, on

Yours faithfully

  
Michael Fitzgerald  
President