



# **Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No 2) and Supplementary Order Paper No 14**

21—1

Report of the Governance and Administration  
Committee

August 2018

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## **Contents**

|                                         |   |
|-----------------------------------------|---|
| Recommendation.....                     | 2 |
| Overview of the bill as introduced..... | 2 |
| Submissions .....                       | 2 |
| New Zealand National Party view .....   | 3 |
| Appendix.....                           | 5 |

Brett Hudson  
Chairperson

# **Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No 2) and Supplementary Order Paper No 14**

## **Recommendation**

The Governance and Administration Committee has examined the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No 2) and Supplementary Order Paper No 14. We are unable to agree on whether the bill should proceed, and recommend that the House take note of this report.

## **Overview of the bill as introduced**

The Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No 2) is a Member's bill in the name of Louisa Wall. It seeks to amend the Sale and Supply of Alcohol Act 2012.

The bill would require a licensing authority or committee, when considering whether to renew a licence, to consider any existing local alcohol policy in regard to the location, proximity, or density of the premises being considered. If the licensing authority or committee considers that renewing the licence would be inconsistent with the local alcohol policy, then the bill would give it the discretion to refuse renewal of the licence.

Alongside the bill, we also considered Supplementary Order Paper No 14 which clarifies that the bill would only apply to off-licences.

## **Submissions**

We received submissions both supporting and against the bill.

The majority of submissions against the bill came from the alcohol industry and concerned business owners. Common issues raised included:

- how fairness and equity would be monitored in exercising the discretion to refuse renewal of a licence
- issues of natural justice
- whether the bill is reasonable or necessary
- whether the discretion would cause uncertainty for business owners, and the financial implications of this
- unintended consequences of not renewing licences such as unemployment or increased litigation costs.

These submissions were also generally opposed to the Supplementary Order Paper. Again, this was mostly due to the fairness aspect. Submitters questioned why the bill should only apply to off-licences.

Submissions that were generally in favour of the bill focused on the effects of alcohol-related harm. These submissions came primarily from community groups, councils, and health organisations. Some noted that the bill aligns with one of the aims of the principal Act, namely to give local communities more say in liquor licensing matters. We heard from these submitters that the number and location of licensed premises is of great concern.

We heard from some submitters that there is tension between the bill's intention and how it would operate in practice. Most notably, they commented that, for the bill to have any effect, a local alcohol policy would have to be in place, and many local councils do not have local alcohol policies. Many of these submitters raised wider issues about the process for implementing local alcohol policies under the Sale and Supply of Alcohol Act, particularly the ability to appeal draft local alcohol policies. Some commented that the current appeals process adds unreasonable costs and delays to the development of policies.

After considering the bill and submissions, we are unable to agree on whether the bill should proceed.

## **New Zealand National Party view**

National Party members believe that the bill would not achieve its objectives and would result in unintended consequences and perverse outcomes.

A number of submissions highlighted fundamental flaws with the bill, including:

- it is unnecessary, given existing authority of District Licensing Committees
- it undermines investment
- it introduces reverse sensitivity issues
- it has the potential to penalise good licensees.

## **Existing authority of District Licensing Committees**

District Licensing Committees (DLCs) already have the authority to decline licence renewals.

There are specific criteria within the Act as it stands which a renewal application must be assessed against, including "amenity and good order".

DLCs can, and do, refuse licence renewal applications where warranted. The committee received evidence of such cases.

## **Undermining investment**

People make significant, long-term investments in their businesses. Those investments are threatened if local alcohol policies could be applied retrospectively to existing licences upon renewal.

The committee heard a number of examples where such could occur, such as licenced premises located near a site which may later be deemed to be sensitive in a subsequent local alcohol policy.

The committee also heard from business owners who make significant investment in store fit-outs and other capital expenses which retrospective application of local alcohol policies would seriously undermine. Likewise, leases could result in long-term cost burdens or penalties should such policies be able to be applied upon licence renewal.

### **Reverse sensitivity**

The bill would also mean that the licensed business would be under constant threat that another business deemed sensitive (e.g. a child care centre) if established nearby at a future point could automatically jeopardise their licence.

That reverse sensitivity issue creates an issue of fairness for the licensed business and also creates a perverse incentive for them to oppose the establishment of any business nearby which could potentially threaten their licence renewal.

### **Penalising good licensees**

The retrospectivity also risks good licensees being penalised should their licence renewal come up ahead of those of less compliant operators. Submitters had strong concerns that this would be the case in practice.

National Party members are of the view that the bill should not proceed.

## **Appendix**

### **Committee procedure**

The Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No 2) and Supplementary Order Paper No 14 were referred to the Governance and Administration Committee on 21 February 2018. The closing date for submissions was 25 April 2018. We received and considered 254 submissions from interested groups and individuals. We heard oral evidence from 47 submitters at hearings in Auckland and Wellington.

We received advice from the Ministry of Justice.

### **Committee members**

Brett Hudson (Chairperson)  
Virginia Andersen  
Kanwaljit Singh Bakshi  
Hon Jacqui Dean  
Paul Eagle  
Hon Peeni Henare  
Raymond Huo  
Dr Jian Yang

### **Advice and evidence received**

The documents that we received as advice and evidence are available on the Parliament website, [www.parliament.nz](http://www.parliament.nz).