

COVID-19 EMERGENCY (RESPONSE – PERMANENCY) AMENDMENT BILL 2021

SEPTEMBER 2021

Introduction

The Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to provide a submission to the State Development and Regional Industries Committee on the Justice Legislation (COVID-19 Emergency Response —Permanency) Amendment Bill 2021.

CCIQ is Queensland’s peak industry representative organisation for small and medium businesses. We represent over 448,000 Queensland small and medium businesses who employ 44% of Queenslanders working in the private sector. CCIQ works with the regional and local chamber network across Queensland to develop and advocate for policies that are in the best interests of Queensland businesses, economy, and community.

On 15 September 2021, the Hon Shannon Fentiman MP, Attorney-General and Minister for Women and Minister for the Prevention of Domestic and Family Violence introduced the Justice Legislation (COVID-19 Emergency Response – Permanency) Amendment Bill 2021 (the Bill) into the Queensland Parliament. The Bill seeks to make parts of COVID-19 emergency legislation permanent and addresses the following four policy areas.

- Documents reforms
- Domestic and family violence reforms
- Liquor reforms
- Other issues

CCIQ will focus on the proposed liquor reforms element of the Bill in this submission.

Background

In March 2021, CCIQ expressed support for an extension of temporary takeaway liquor authority power for licensed restaurants and cafes¹. We cited this policy measure as an example of a “business friendly” measure that reduced the regulatory burden for COVID-19 affected businesses and gave them opportunities to increase their revenue streams. We also advocated for the permanence of “business friendly” measures that were enacted as a direct response to the COVID-19 crisis.

On 5 May 2021, the Commissioner for Liquor and Gaming wrote to CCIQ seeking input on proposed amendments to the *Liquor Act 1992* (the Act) to permanently allow holders of subsidiary on-premises licence (meals) to sell takeaway liquor with takeaway food. CCIQ provided a submission² to the Office of Liquor and Gaming Regulation expressing support for these amendments. We also emphasised the “business-friendly” aspect of the takeaway liquor licensing provisions.

¹ CCIQ verbal evidence at the COVID-19 Emergency Response and Other Legislation Amendment Bill 2021 public hearing, 29 March 2021

² CCIQ submission on the *Liquor Act 1992* Proposed Amendments – Takeaway Liquor (May 2021)

Recap on “Business-friendly”

Business friendly policies are also a critical part of CCIQ’s policy priorities³. We specifically define “business friendly” governments as “Governments that reduce operating costs and complexity.” We refer to this in our 2021-22 State Budget Submission⁴, our submission to the COVID-19 Emergency Response and Other Legislation Amendment Bill 2021⁵ and in various public fora.

Business certainty is another major CCIQ priority. Over the past 18 months, CCIQ has consistently advocated on the importance of providing businesses with certainty in the management of the Queensland Government’s COVID-19 health and economic response. This certainty is particularly important now that we know complete eradication of the virus is highly unlikely in the short to medium term – resulting in the extension of ongoing impacts to business and potential disruptions to their ability to trade. The permanence of the proposed liquor-licensing provisions in the Bill will add an important element of certainty in the affected sectors.

Response to the proposed liquor amendments

The proposed amendments in the Bill aim to permanently retain aspects of the current temporary arrangements under Part 10A by allowing holders of a subsidiary on-premises licence (meals), to which section 67A applies (licensed restaurants), to sell up to 1.5 litres of takeaway wine with a takeaway meal.

CCIQ supports the principle behind making the proposed liquor amendment provisions permanent. This is a “business friendly” measure that allows a sector negatively affected by COVID-19 restrictions to operate with a lower regulatory burden and with additional revenue streams. The permanency provisions in the Bill also grant the certainty that businesses need to plan and invest. CCIQ has previously supported moves to make pro-business COVID-19-related legislation permanent⁶ and we welcome the move to do so through this Bill.

We further support Bill’s proposal to waive the application fee for eligible licensees who apply for the permanent liquor license before 30 June 2022. This is also in line with business-friendly provisions that reduce the cost and complexity of doing business.

Concerns with newly introduced restrictions

Despite our support for the principles in the Bill CCIQ is, however, concerned about the new restrictions introduced with the current Bill. The table below summarises the difference between the previous version of liquor licensing amendments and the current Bill.

³ <https://www.cciq.com.au/assets/2021-State-Budget/CCIQ-Strategic-Priorities-2021.pdf>

⁴ <https://www.cciq.com.au/assets/2021-State-Budget/2021-22-CCIQ-Qld-Budget-Submission.pdf>

⁵ <https://www.cciq.com.au/assets/2021-COVID19-EMERGENCY-RESPONSE-SUBMISSION/CCIQ-cor-9Apr2021-COVID.pdf>

⁶ CCIQ verbal evidence at the COVID-19 Emergency Response and Other Legislation Amendment Bill 2021 public hearing, 29 March 2021

Current temporary Bill	Proposed amendments	Differences
<ul style="list-style-type: none"> Licensed restaurants and cafes can sell 2.25 litres of liquor (excluding straight spirits) in conjunction with a takeaway food 	<ul style="list-style-type: none"> A licensee can sell a maximum volume of 1.5 litres of wine with each sale that includes a takeaway meal Required to apply to the Office of Liquor and Gaming Regulation for the approval to do so. 	<ul style="list-style-type: none"> Proposed amendments reduces allowable takeaway liquor volume by 34% (1.5 litres v 2.25 litres) Requirement for responsible service and delivery of alcohol Allow the sale of wine only Sale with takeaway liquor with meals only Removal of beer and pre-mixed alcoholic drinks

The rationale for these proposed restrictions from the temporary arrangements currently in place appears disproportionality restrictive to the risk associated with the sale of takeaway alcohol with a meal. In consultations with The Department of Justice and the Attorney General, 12 proponents⁷ of the liquor licensing reforms raised the following benefits:

- Benefits to restaurant and café operators
- No evidence of alcohol related harm

In contrast, eight opponents of the liquor licensing reforms raised the following objections⁸:

- Lack of community need or justification for continuing the arrangements of the COVID-19 temporary takeaway liquor authority on a permanent basis;
- Lack of rigour under the current framework for takeaway liquor sales leading to the irresponsible supply of liquor and adverse intoxication outcomes resulting from home delivery of liquor;
- The significant increase in the number of packaged liquor outlets in Queensland increases the risk of alcohol-related harm arising from;

⁷ Justice Legislation (COVID-19 Emergency Response Permanency) Amendment Bill – Explanatory Notes (p 16)

⁸ Ibid

- Increased potential for irresponsible supply of alcohol and adverse intoxication by allowing takeaway liquor to be sold with nominal amounts of prepared food (e.g., hot chips);
- Allowing restaurants to sell up to 2.25 litres of wine under the COVID-19 temporary takeaway liquor authority is considered to pose a greater risk of harm due to its high alcohol content per volume, particularly if the wine is consumed immediately; and
- Adverse impacts for commercial hotels and bottle shops, including the potential loss of business to restaurants and cafés operating as ‘de facto bottle shops’.

Our view is that there remains limited evidence from the current temporary provisions and the potential harms outlined in the concerns above. We will reiterate our previously stated view⁹ that alcohol sold because of these license amendments is high-cost and accompanied by a meal. The claims from the eight opponents of the proposed liquor licensing amendments needed further interrogation. More evidence of a clear link between the proposed liquor licensing amendments and community harm is needed to justify these restrictions and this has not been provided as there does not appear to be any evidence from the temporary provisions linked directly to the current arrangements.

It is also important to point out that the Bill already imposes additional regulatory oversight in response to these queries. These include:

- Responsible service and delivery of takeaway alcohol provisions
- Tightening the definition of what constitutes “a full meal” Further clarification that licensed cafes will be unable to obtain an approval to sell takeaway liquor (because the serve food, rather than meals)

The proposed additional regulatory oversight appears more than sufficient to regulate any perceived or real risk of harm, although it add to and increases the regulatory burden on small and medium business.

Additionally, the proposed amendments place a disproportionate burden on small and medium businesses which limits competition.

The limiting of competition which is not the intent behind the proposed amendments. The argument about adverse impacts for commercial hotels and bottle shops and loss of business to restaurants and cafes operating as “de facto bottle shops” is, therefore moot.

Inter-State Comparison

These restrictions are also out of step with other jurisdictions according to the legislation tabled in their legislatures as summarised below:

Victoria	South Australia	Queensland
Enabling the sale of	Enabling the sale of	Enabling the sale of

⁹ CCIQ Submission on the *Liquor Act 1992* Amendments – Takeaway Liquor (May 2021)

<ul style="list-style-type: none"> • 750ml bottle of wine or either • a six-pack of beer, cider, or mixed spirits <p>with a takeaway meal¹⁰</p>	<ul style="list-style-type: none"> • two bottles of wine or • one bottle of wine and a six-pack of beer, • cider or pre-mixed spirits <p>with a takeaway meal between 8am and 10pm¹¹</p>	<ul style="list-style-type: none"> • a maximum volume of 1.5 litres of wine <p>with each sale that includes a takeaway meal</p>
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Victoria and South Australia both introduced takeaway licensing exemptions for restaurant, pubs, and clubs as a direct response to COVID-19. They also moved to make these moves permanent. Given these similarities, the difference in approach to takeaway liquor licensing between the three states is starker. Queensland has taken the most restrictive approach in type of liquor sold and equal most restrictive approach in quantity of liquor. Other jurisdictions would have similarly weighed the potential benefits and potential community harm of restrictions, but their final Bills were not as restrictive as Queensland’s.

Recommendation

CCIQ supports the Bill’s overarching, deregulatory intent, and the fee waiver for licensees. However, we recommend an amendment to revert to previous liquor licensing provisions for licensed restaurants and cafes, namely:

- Allowing 2.25 litres of takeaway liquor to be served with takeaway meals
- We also recommend initiating a deep review of liquor licensing fees to make them significantly cheaper for small businesses

Further Enquiries

CCIQ thanks the Attorney-General and Minister for Women and Minister for the Prevention of Domestic and Family Violence. If there are any further questions in relation to the submission, please contact Gus Mandigora (Senior Policy Advisor) at gmandigora@cciq.com.au (07 3192 0117)

¹⁰ Liquor Control Reform Amendment Bill 2021 (Introduced in Parliament of Victoria – 23 June 2021)

¹¹ Liquor Licensing (COVID-19 and Other Measures) Amendment Bill (Introduced in Parliament of South Australia – 24 August 2021)