

THE HOSPITALITY MESSENGER

Your Western Australian liquor licensing, hospitality, event and related industries news and information presented by Lavan

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LAVAN



THE NEW PACKAGED LIQUOR LAWS HAVE ARRIVED

After more than a year waiting in the wings, new laws regarding packaged/take-away liquor suddenly came into effect on Saturday 2 November 2019.

The new laws involve a two-pronged test and affect hotel, tavern, liquor store and special facility licences.

The laws apply to applications for new licences, applications to relocate an existing licence to a new location and applications for existing premises to be extended, redeveloped or refurbished.

Firstly, there is a new initial threshold hurdle that proponents must get over, to even be eligible to make an application. The new laws prohibit any additional packaged liquor outlet with a retail section of 400m² or larger from being within 5km (by road) of an existing retail section of 400m² or larger in the metropolitan area, or within 12km (by road) in the country.

The 400m² area in question does not relate to the entirety of the premises but rather the area where packaged liquor is displayed for the purpose of take-away sale. Therefore, storage areas are excluded from the 400m² area.

Applicants with proposals for new licences involving a retail area less than 400m², that are not prohibited from applying, will now need to satisfy an additional "needs" test as well as the public interest test in order to be considered for approval. This means that applicants will have to prove that existing retail liquor services in the surrounding area cannot meet local consumer requirements for packaged/take-away.

This needs test sees a return to a similar test that existed prior to 2007 when new liquor store licence applications were especially complex and objections were common.

Applications in respect of affected licence types are now more complicated under the new regime. Evidence and submissions specifically addressing the new laws will be required. In the last three weeks the licensing authority has been requesting such additional evidence and submissions from applicants with a pending application in the system which has not yet been decided.

The new laws could well see a return of licensee objections as a regular occurrence.

The office of the Director of Liquor Licensing will be closed over Christmas and New Year, from 5pm Tuesday 24 December 2019 to 8.30am on Thursday 2 January 2020.



Most licensees are restricted as to when they can trade on Christmas Day and many licences are subject to a condition prohibiting any trading on Christmas Day.

Some licences authorise additional trading hours for New Year's Day.

Licensees should check the conditions of their licence and seek advice if unsure. Additional hours can be beneficial but infringements can be issued for trading outside approved hours.

* R E M I N D E R *

Annual licence fees must be paid by 1 January 2020. If you have not received an invoice, you should still take steps to make payment by that date. Penalties can apply for late payment and non payment can result in more serious consequences.

Click [here](#) to see some of the applications for upcoming public events.

WHAT'S IN A TASTING ?

Free samples are common in the liquor and hospitality industry, but is there a minimum or maximum volume associated with liquor tasting samples? – YES. Maximum quantities are prescribed by the Liquor Control Regulations 1989 (WA) as follows:

Spirits: 15ml

Wine: 50ml

Beer: 100ml



SPECIAL ENTERTAINMENT PRECINCTS

The State Government has said that new planning and environmental reforms will be introduced to “protect Western Australia’s entertainment areas...and support the State’s music industry”.

The reforms are apparently intended to address expectations of residents and the hospitality, event and music industries in regard to noise from entertainment and hospitality businesses, particularly as the population grows and higher density living develops.

The reforms include proposed changes to noise regulations.

Particular areas may be designated as “special entertainment precincts” and then be potentially subject to different requirements regarding noise and other related factors.

The draft reforms are open for public comment until **14 February 2020**. Access further information and the opportunity to contribute your opinion [here](#).

Licensee still fit and proper but disciplined by the Liquor Commission

Earlier this year a licensee was the subject of a Police complaint to the Director of Liquor Licensing alleging the following:

- Three driving under suspension offences
- A conviction for using an unlicensed vehicle
- A conviction for contravening a traffic signal
- An assault on someone at the licensed premises
- Hostile and offensive behaviour towards Police at the licensed premises

The Commission recently handed down its decision finding that it was not persuaded, in the circumstances, that the licensee should be ruled not fit and proper to be licensee. However, the Commission did find that disciplinary action should be imposed and made orders that the licensee do the following:

- Pay a fine of \$3,000
- Undertake an anger management course

The Commission added that “the respondent is also on notice that any further breaches under the Act will be viewed gravely by the Commission and without pre-empting matters, there would be a strong likelihood that the Commission, if satisfied that there were further grounds for disciplinary action, would impose the penalty advocated by the Police in this matter”.

The published decision can be accessed [here](#).



OUR TEAM

Your business or club is an important contributor to the Western Australian community and to WA's growing liquor, hospitality, events, tourism and related industries.

Are you getting the most out of your business? Are you fulfilling all of your ideas and enjoying business success?

If you have an idea for a new business, we would love to help you develop it.

We encourage you to obtain modern business solutions from us and receive the benefits of a life long working relationship to help maximise your business potential. Any expenditure with us is an investment in your business and its future.

We enjoy visiting our clients' places of business and will be happy to visit yours.



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