

A BILL

entitled

LIQUOR LICENCE AMENDMENT ACT 2010

WHEREAS it is expedient to amend the Liquor Licence Act 1974;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Liquor Licence Amendment Act 2010.

Amends section 1

2 Section 1(1) of the Liquor Licence Act 1974 (in this Act referred to as "the principal Act") is amended by inserting the following definition in its proper alphabetical position—

““premises” includes any place in respect of which a licence has been granted under this Act for the provision and sale of intoxicating liquor;”.

Amends section 19

3 Section 19 of the principal Act is amended—

(a) in subsection (1), by deleting paragraph (e) and substituting the following paragraph—

“(e) the rules of the club make appropriate provisions for—

- (i) the orderly operation of the club and for admission of persons to the privileges of membership;
- (ii) requiring members of staff of the club to refrain from permitting a person who joins the club from using the facilities of the club as a member, until 48 hours after obtaining membership;
- (iii) a notice in writing to be given to new members, on admission to membership, informing them that they are not permitted to use the club's facilities as members until 48 hours after obtaining membership of the club; and

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- (iv) the notice under subparagraph (iii) to specify when the period of 48 hours begins and when it expires; and”;
- (b) by numbering the proviso to subsection (6) as subsection (7); and
- (c) by inserting the following subsections next after subsection (7)—

“(7A) The facilities of a members’ club shall not be extended to a new member until 48 hours after the person obtains membership of the club.

(7B) Where a membership facility of a members’ club is extended to a member within 48 hours of obtaining membership of the club, the new member to whom the membership facility is extended and the person who extended the membership facility each commit an offence and each of them is liable on summary conviction to a fine not exceeding \$300.

(7C) The president or the secretary of a members’ club or both of them shall be deemed to be liable for any contravention of this Act by—

- (a) a servant or agent of a members’ club while acting in the course of duty; or
- (b) any person acting on behalf of the club,

unless they can prove that they took reasonable care and attention to prevent the contravention.”.

Inserts sections 39A and 39B

4 (1) The principal Act is amended by inserting the following sections next after section 39—

“Security on licensed premises with disc jockey, live band or live music after 10:00 p.m.

39A (1) Within twelve months of the coming into operation of this Act, a licensed person who engages the services of a disc jockey, or has a live band or live music on the licensed premises to which the licence applies, after 10:00 p.m., shall also engage the services of security guards for the purpose of maintaining security.

(2) The ratio of the capacity of the licensed premises to the number of security guards shall be—

- (a) for licensed premises with a capacity not exceeding 35 persons, at least one security guard;
- (b) for licensed premises with a capacity exceeding 35 persons but not exceeding 50 persons, at least two security guards; and
- (c) for licensed premises with a capacity exceeding 50 persons, at least one security guard for every 50 persons.

(3) The Minister may in consultation with the Commissioner of Police and the Chief Fire Officer, by Order subject to the negative resolution procedure—

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- (a) provide for the means by which the capacity of licensed premises is determined; and
- (b) amend the ratio of the capacity of licensed premises to security guards,

under subsection (2).

(4) An Order made under subsection (3) may make different provisions for indoor and outdoor licensed premises and different circumstances.

(5) A licensed person who fails to comply with subsection (1) or (2), commits an offence and is liable on summary conviction to a fine not exceeding \$3,000.

(6) For the purposes of this section “capacity” means the maximum number of persons a licensed premises is permitted by law to accommodate.

Training for managers, supervisors and persons in charge of bars

39B (1) Within twelve months of the coming into operation of this Act, every licensed person shall require every manager, supervisor or person in charge of a bar from which alcohol is provided or sold for consumption on the licensed premises, to be certified as having completed a training programme on responsible alcohol sales and service, prescribed in regulations made under this Act.

(2) A manager, supervisor or a person in charge of a bar from which alcohol is provided or sold for consumption on the licensed premises shall—

- (a) while on duty, carry on his person his certificate as evidence that he has been certified as having successfully completed the programme referred to in subsection (1); and
- (b) produce his certificate for inspection at the request of any police officer or other person having reasonable grounds to ask for it.

(3) A licensed person who fails to comply with subsection (1) or a manager, supervisor or a person in charge of a bar from which alcohol is provided or sold for consumption on the licensed premises who fails to comply with subsection (2) commits an offence and is liable on summary conviction, to a fine not exceeding \$3,000.”.

Amends section 40

5 Section 40(4) of the principal Act is repealed and replaced by the following subsection—

“(4) Any person below the age of 18 who on being asked by a police officer or, for reasonable cause, by a licensed person, to leave a licensed premises or produce evidence that he is 18 years or older—

- (a) fails to leave the licensed premises; or

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(b) produces any photographic identification that has been altered or is false,

commits an offence and is liable on summary conviction to a fine not exceeding \$500.”.

Repeals section 42A

6 Section 42A of the principal Act is repealed.

Inserts section 51A

7 The principal Act is amended by inserting the following section next after section 51—

“Power of police to close licensed premises for a period not exceeding 24 hours

51A (1) A police officer of the rank of superintendent or above, may, upon reasonable belief that any serious disorder or threat to public safety has occurred, is likely to occur or is reasonably expected to occur on a licensed premises or near a licensed premises, order any licensed person, his servant or his agent carrying on business at or near the licensed premises where such serious disorder or threat to public safety has occurred, is likely to occur or is expected to occur, to close the licensed premises and any place of business of the licensed person, his servant or agent near the licensed premises, for a period not exceeding 24 hours, for the preservation of public peace.

(2) A licensed person, his servant or agent who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$5,000. ”.

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EXPLANATORY MEMORANDUM

The Bill for consideration is the Liquor Licence Amendment Bill 2010.

Clause 1 of the Bill is the short title.

Clause 2 of the Bill inserts a definition for “premises”.

Clause 3 of the Bill amends section 19(1)(e) of the Liquor Licence Act 1974 (the principal Act), to require that the rules of a members’ club, have a provision for a 48 hour waiting period between when a person is admitted to membership of a club and when the person is permitted to enjoy the facilities of the club as a member. Under a new subsection (7A), the facilities of a members’ club shall not be extended to a new member until 48 hours after the person obtains membership of the club. Subsection (7B) makes provision for a penalty for breach of subsection (7A). Under a new subsection (7C), the president or the secretary of a members’ club or both of them are made liable for the contravention of any provision of this Bill by a servant or agent of the club or any person acting on behalf of the club.

Clause 4 of the Bill amends the principal Act to insert new sections 39A and 39B. The new section 39A makes it mandatory for a licensed person who engages the services of a disc jockey, or has a live band or live music on the licensed premises to which the licence applies, after 10:00 p.m., to also engage the services of security guards to maintain security on the licensed premises. The Minister is given power under subsection (3) to, in consultation with the Commissioner of Police and the Chief Fire Officer, make subordinate legislation to provide for the means by which the capacity of licensed premises is determined and amend the ratio of the capacity of licensed premises to security guards. The new section 39B makes provision for every manager, supervisor or person in charge of a bar on a licensed premises where alcohol is provided or sold for consumption on the licensed premises, to receive training on responsible alcohol sales and service, to be prescribed in regulations made under the principal Act.

Clause 5 of the Bill amends section 40(4) of the principal Act to combine the penalty provisions under section 40(4) and section 42A.

Clause 6 of the Bill repeals section 42A of the principal Act.

Clause 7 of the Bill amends the principal Act by inserting a new section 51A. Under the new section 51A, a police officer of the rank of superintendent or above may on reasonable belief, that a serious disorder or threat to public safety has occurred, is likely to occur or is reasonably expected to occur on a licensed premises or any place of business of the licensed person nearby, order the licensed person or his servant or agent doing business on the licensed premises or nearby, to close the licensed premises and such place of business nearby, for a period not exceeding 24 hours. A licensed person who fails to obey the orders of a police officer under this section, commits an offence and is liable on summary conviction to a penalty not exceeding \$5,000.