THE HOSPITALITY MESSENGER

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

February 2019 | 36th edition

LAVAN

NEW LAWS - UPDATE

The new packaged liquor laws previously reported on by The Hospitality Messenger are still yet to come into effect.

Read our latest blog post here for an update.

Can I take my wine with me?

As part of a suite of changes to the Liquor Control Act, all licensees may now allow a patron to take a partially consumed bottle of wine from the licensed premises if the wine was sold for consumption ancillary to a meal.

Importantly, the term "meal" is defined in the Act to mean food that:

- is eaten by a person sitting at a table, or fixed structure used as a table, with cutlery provided for the purpose of eating the food; and
- is of sufficient substance as to be ordinarily accepted as a meal; and
- consists of one or more courses.

Therefore, the change does not simply allow patrons to take home their unfinished bottle of wine in any situation. The wine in question must have been sold for the purpose of being consumed ancillary to a meal.

Relevantly, if it is alleged that the wine was not sold for the purpose of being consumed ancillary to a meal, it is incumbent upon the licensee to be able to prove beyond reasonable doubt that it was.

Mirage becomes reality as licence cancelled

It rarely happens, but recently the Liquor Commission cancelled a licence that had been trading.

Police brought a section 95 complaint against the licensee of Mirage Palace in Northbridge, which was operating under a restaurant licence. Police sought orders from the Commission that the licence be cancelled and the sole director of the licensee company disqualified for 18 months from involvement in a licensed business.

Police alleged that 11 incidents had occurred across a three-week period that breached the licence conditions. It was submitted that:

- **The Mirage Palace was not properly managed in accordance with the Act.**
- **The licensee had contravened a requirement of the Act and a term of the licence.**
- **The continuation of the licence would not be in the public interest.**
- **The safety, health or welfare of persons who resorted to the premises was being endangered by acts or neglect of the licensee.**

The Liquor Commission agreed. Some of the Commission's findings were that:

- **Lewd acts and failures to record the service of food and liquor proved that the premises was not being managed in accordance with the Act.**
- **The incidents directly involve the safety of staff, the sale of liquor and the question of harm minimisation.**
- **The premises was not operating as a restaurant licence. This finding was made partly on the basis that the nature of the food being served was not substantial and a large proportion of the expense to patrons was the cost of party hostesses.**
- **There were repeated breaches even after the licensee was on notice that the Liquor Enforcement Unit was investigating the management of the premises.**
- **The director of the licensee company did not ensure the premises was being operated in accordance with its licence, by allowing snack type foods to be served, secondary to the sale of liquor.**

A fully copy of the decision can be read here.

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Most premises licensed under a liquor store licence and situated outside the metropolitan area may now trade on the following Sundays in 2019, unless specified otherwise, without having to apply for an extended trading permit:

3 March 2019

21 April 2019

2 June 2019

29 September 2019

15, 22 and 29 December 2019

A number of store licences in restricted areas have been excluded and some licences will be subject to their own special conditions. All licensees should double check.

Don't forget.....

If you want extended trading approval for Good Friday or Anzac Day, apply now.

Licensees must keep their contact details updated with the licensing authority.

Music condition mystery

Many licences are subject to a condition requiring music at the premises to be kept at a background level which allows normal conversation to occur.

The Hospitality Messenger is often asked, "what does this mean exactly?", "what constitutes 'background'?" and "what does 'normal conversation' really mean?

There are no official definitions unfortunately.

The licensing authority has the discretion and the authority to determine the answers to those questions in relation to any particular set of circumstances. Each case will be determined on its own merits.

Generally speaking, to comply with such a condition, licensees need to ensure that any noise at the premises is carefully monitored, contained and kept to a low level which is secondary to the sounds of patrons conversing in a usual or ordinary manner.

BRAG BOX

Recently we have obtained approvals for various clients in relation to two liquor store licences, a tavern licence, a special facility licence, a restaurant licence, an ongoing hours CTP, an alteration/redefinition and variation to conditions.

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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