



## CHRISTCHURCH TRI-AGENCY NEWSLETTER

October 2008

This newsletter is now jointly produced by the Police Alcohol Strategy and Enforcement Team, the Christchurch City Council Liquor Licensing Team, and Community & Public Health Liquor Licensing Officers.

### Licensees.

Please ensure this newsletter is circulated to all staff, especially Duty Managers.

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### 1 Evidence of Age Documents and selling to minors.

The purchasing of liquor by minors (under 18) is one of the major issues the three agencies are trying to reduce with the help of bar managers and staff.

I am often asked by bar staff - "why have we been instructed by our employer to only accept a New Zealand drivers licence, a New Zealand or Overseas passport, or HANZ 18+ card, as an evidence of age document, and not student identification or a firearms licence. They both have photographs on them, and a firearms licence is hard to get?"

The answer is simple. The Sale Of Liquor Act 1989 specifically defines an evidence of age document as being a New Zealand drivers licence, a New Zealand or overseas passport, or HANZ 18+ card. Furthermore the Sale Of Liquor Act states that it is a defence to a charge of selling to a minor if the defendant proves that the seller sighted an **evidence of age document** before or at the time of the sale that indicated that that person was over the age of 18 years. So if the seller accepts another form of identification they will have no defence if the person turns out to be a minor.

Please also be aware that there are a large number of false identifications circulating out there. Most are not counterfeit, they simply belong to someone else. So check them carefully and if in doubt ask for a second form of identification, or simply don't accept them

I also recommend the following:

- Ask the patron to remove the identification from any holder or wallet. This allows you to inspect the identification properly, and removes the risk of you being accused of removing money from the wallet;
- Ensure you have good lighting so the identification can be thoroughly inspected;
- If you have security cameras, inspect the identification in view of a camera so the inspection is recorded in case you have to prove it at a later date;
- If in doubt don't accept it. Better safe than sorry.

Any seized identifications should be forwarded to me directly within seven days in the Police provided bags. If you have any questions regarding this, please don't hesitate to contact me.

Sergeant Alastair Lawn

## 2. Comments on the Sale and Supply of Liquor and Liquor Enforcement Bill

The views in this article are not to be considered the opinions of the Christchurch City Council. It is only intended as a layman's perception of the new Bill.

The new Bill attempts to overcome some of the short comings of the current Sale of Liquor legislation particularly in respect of community input via Local Alcohol Plans (LAP). The appointment of the Law Commission to look at the whole issue of alcohol is welcomed but there is a perception that urgent changes are needed to address some issues.

The Bill is set out in a clause by clause format, each clause amending a particular section of the act. The Bill seeks to amend a number of Acts with the greatest focus being on the Sale of Liquor Act 1989 (SOLA) with minor changes to the Summary Offences Act 1981 and the Land Transport Act 1998. The Bill follows the same format as the SOLA with the amendments for On Licenses being repeated for Off, Club etc.

Concerning On-licenses both new and renewals, Clause 8 & 12 states the LLA must have regard of the Local Alcohol Plan (LAP). It must not grant an on-licence if there is an applicable plan and granting of a licence would be inconsistent with that plan, unless the local authority has notified the Authority that it supports the granting of the licence. The LLA must impose conditions at renewal if there is a LAP and granting the licence would be inconsistent with the plan.

Clauses 15 through to 22 concern new and renewal off licence applications. This involves grocery style licenses and a restriction on the granting of applications for grocery style licenses under 150m<sup>2</sup> or those inconsistent with the LAP. Unopposed applications for those premises under 150m<sup>2</sup> and those considered to be inconsistent with the LAP will still have to go before the LLA.

Special provisions apply to grocery applications under 150m<sup>2</sup> that are within 10 km of a supermarket of 1000m<sup>2</sup> or more in size, or other premise manufacturing or selling liquor.

Clause 18 restricts the range of liquor that may be sold in premises with an off-licence that are within a shop or adjacent to a supermarket under the same management, to those sold in a supermarket namely wine, beer etc.

Clause 37 inserts a section into SOLA providing for Local Alcohol Plans. LAPs may include all or any of the below conditions:

- (a) the hours during which liquor may be sold;
- (b) where outlets may be located;
- (c) a maximum density for outlets;
- (d) a minimum distance outlets must be from—
  - (i) particular community premises;
  - (ii) community premises of any particular kind or description.
- (e) responsible business practices and event management;
- (f) information to be submitted with applications for the granting or renewal of a licence;
- (g) the submission with applications for the granting or renewal of a licence of a social impact report;
- (h) the matters to be contained in social impact reports;
- (i) the persons or kinds of persons by whom social impact reports are to be prepared;
- (j) conditions that are to be or may be imposed on licences under sections 14, 37, 60, or 80;

- (k) criteria to be used in assessing applications for the granting or renewal of licences, or licences of particular kinds;
- (l) a policy (which may include a statement of circumstances in which applications are to be granted or refused) on how any criteria or conditions in the plan are to be applied to applications for the granting or renewal of licences, or licences of particular kinds.

Clause 38 puts into effect “three strikes and you’re out”. In general any manager who has had 3 finding against them relating to people under 18 made within 2 years, the new provision will have the effect of preventing them from being manager, temporary or acting manager for 5 years from the date of the third conviction.

Clause 40 to 42 changes the defence relating to selling, supplying or allowing a young person to enter or remain in a restricted or supervised area, that the only defence is believing on reasonable grounds that the document produced was in fact evidence of an age document (or what seems to be an age document) being the basis for having a reasonable grounds for believing that a young person is 18 or older. This means that identification must have been requested for the defence to apply irrespective of whether the person looks over 18 or for that matter 25. If identification has not been asked for and that person turns out to be under 18 **there is no defence.**

Clause 44 makes it an offence to present false identification to a licensee or manager.

Clause 48 is important as it deals with current licenses which no longer comply with LAPs or in relation to grocery stores less than 150m<sup>2</sup>, there is transition period of three years from the passing of the Act during which they can renew. However no renewals will be allowed to extend beyond 3 years from enactment of the Bill. This would mean if you are due to renew in 2011 and assuming the Bill is enacted in 2009, then you would be issued with a licence that could only remained in force until sometime in 2012, the date coinciding with the 3 years from when the Bill became law.

A new section is to be inserted, that at the end of the transition period **no compensation will be paid** to a business that has a licence which would be inconsistent with the LAP or grocery under 150m<sup>2</sup> which would not be able to trade. This will include compensation for the imposition of any condition placed on the licence by the LLA at time of renewal.

### **Changes to other legislation**

Concern over proposed changes to the Summary Offences Act 1981 which deal with supplying liquor to a young person by someone other than a parent or guardian.

Under amendments to the Land Transport Act 1998 it will make it an offence for a person under 20 who does not have a full licence, to return a positive evidential breath test.

There are changes to the advertising of alcohol to give a legislative system that supports and regulates a wider range of advertising while giving a greater expectation that advertisers will comply with the Code(s) of Adverting Liquor.

This is just a brief overview of a document that is 43 pages in length, and as not all matters have been covered you may consider seeking independent legal advice.

### 3. Food Availability.

A standard condition of an On and Club licence is:

*“Food must be available for consumption on the premises as follows:*

*At all times when the premises are authorised to be open for the sale of liquor, food of a range and style similar to that shown on any menu submitted or a range of snack foods in the nature of pies, sandwiches, filled rolls, pizzas and the like, must be conveniently available for all patrons and the availability of those foodstuffs must be notified to them by appropriate notices throughout the premises.”*

The **Liquor Licensing Authority** has dealt with food availability in a number of hearings so far in 2008.

In PH 466/2008 *Hoyts Cinemas Sylvia Park* the Authority suspended the on-licence for 3 days (Friday to Sunday) and in the decision stated:

*We note that there were at least four occasions when the signs were not in place confirming the availability of food. Furthermore, the food itself was not available. We regard the absence of food when an on-licence is being operated as a very serious issue.*

In Ph 556/2008 *Matinee* (New Plymouth), the Authority suspended the on-licence for two days and in the decision stated:

*The third reason why we believe that a suspension of the licence is desirable is that pursuant to s.14(5) of the Act , all licences may contain a condition about the provisions of food. The standard condition is referred to above. The reason the food is included is to help reduce liquor abuse. As was stated in *Marieta McLeod v Hoyts Cinemas (NZ) Limited LLA 466/2008*:*

*“We regard the absence of food when an on licence is being operated as a very serious issue.”*

In PH621/2008 *Fish n’ Frog* (Kaitaia), an application for a new on licence for a previously unlicensed venue, the Authority commented:

*“It is our belief that the standard of food provided in taverns should be improved as to its quality and variety. The current minimum standard that a range of snack foods in the nature of pies, sandwiches, filled rolls, pizzas and the like, must be conveniently available, is simply not good enough. However, the Authority’s policy on this issue is still being debated and formulated. If it is accepted, any new policy will initially apply to new licences. At this time, these comments represent a statement of intent rather than a new direction.”*

The expectations of the monitoring agencies are:

Food must be available and promoted throughout premises that hold an On licence and Club license at all times when liquor is available. If Liquor is available food must be available, regardless of the time of day. Unless the premise is set up and operates as a restaurant, menus (including price) should be large and clear rather than reliance of table top or bar top menus. Further operations to ensure compliance will be conducted. This will involve patrons requesting food. If inadequate food is offered, the patron will order liquor. If such a sale is made, this is considered an “unauthorised sale” due to the unavailability of food.

Peter Shaw, CDHB

#### 4. Controlled Purchase Operations

On Friday the 9<sup>th</sup> of May 2008, the Police, Community And Public Health, and the Christchurch Liquor Licensing Team, carried out a controlled purchase operation in Christchurch and Banks Peninsula. On, Off, and Club Licensed premises were visited. Twenty one premises were visited. Six On licence premises, and two Off licence premises sold to the minors. All sales have resulted in legal action. For one premises it was the second time the Duty Manager, (and Licensee), had sold to minors during a Controlled Purchase Operation.

The premises that were visited and did not sell have been advised and congratulated in writing.

Three of the premises that sold were visited earlier in the evening prior to door staff starting. One premises had door staff that stamped the volunteers and allowed entry to the premises after they asked for identification and were told they didn't have any.

It is very important that bar staff and duty managers are aware that security staff have no legal obligations under the Sale Of Liquor Act. It appears some premises rely on door staff to ask under 25s for ID, and don't hesitate to serve patrons if they have made it through the door.

Further controlled purchase operations will be carried out. On, Off, and Club licensed premises will be visited.

Please take this opportunity to remind all staff, and ensure you have systems in place to ensure sales are not made to minors and other unauthorised persons.

**Please remember – if they look under 25 years of age and have no suitable ID – then no service – NO EXCEPTIONS.**

Paul Spang, DLA Staff

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#### 5. Christmas Day 2008

It is time to think about trading hours over this period. This year Christmas Day falls on a Thursday.

Off-licences are not permitted to sell liquor on Christmas Day. This means no alcohol can be sold from 12 midnight the day before.

Hotels or Taverns: No liquor is to be sold on Christmas Day to any person **other than** those who are:

- for the time being living on the premises, or
- present on the premises for the purpose of dining.

**If you are considering applying for a special licence please do so now.**

If you are not clear on this requirement, particularly in regards to diners, please don't hesitate to contact Agency staff.

Martin Ferguson, DLA Staff

**6. Accredited Course Providers Are:**

	<b>Telephone</b>
Avonmore Tertiary Academy	977-2700
Christchurch Polytechnic Institute of Technology	940-8000
Liquor Licensing & Training Christchurch Limited	383-4735

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**7. Contact Telephone Numbers**

**Christchurch District Licensing Agency**

Paul Rogers (Team Leader)	941-8909		
Martin Ferguson (Inspector)	941-8956	Paul Spang (Inspector)	941-8826
Natashia Lafituanai	941-8827	Helen Ward	941-8821
Michele Vincent	941-8068		

Fax number 941-8792

Email: [liquor.licensing@ccc.govt.nz](mailto:liquor.licensing@ccc.govt.nz) Web Site: [www.ccc.govt.nz/liquor](http://www.ccc.govt.nz/liquor)

**Community and Public Health**

(Medical Officer of Health)..... 364-1777

**New Zealand Police Liquor Licensing** ..... 378-0446

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Regards

**Christchurch City Council Liquor Licensing Team  
Police Alcohol Strategy and Enforcement Team  
Community and Public Health Liquor Licensing**

**PLEASE CIRCULATE THIS TO ALL YOUR STAFF- ESPECIALLY  
DUTY MANAGERS**

**and/or place on your notice board**