

NORTHERN TERRITORY OF AUSTRALIA

LIQUOR AMENDMENT (POINT OF SALE INTERVENTION) ACT 2018

Act No. 9 of 2018

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 9 of 2018

An Act to amend the *Liquor Act*

[Assented to 23 May 2018]
[Introduced 21 March 2018]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Liquor Amendment (Point of Sale Intervention) Act 2018*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

3 Act amended

This Act amends the *Liquor Act*.

4 Section 4 amended (Interpretation)

Section 4(1)

insert (in alphabetical order)

alcohol-related offence, for Part VIIC, see section 101ZJ.

Police Force means the Police Force of the Northern Territory established by section 5(1) of the *Police Administration Act*.

5 Sections 48B and 48C inserted

After section 48A

insert

48B Commissioner's power to suspend licence

- (1) The Commissioner of Police may suspend a licence for not more than 48 hours if:
 - (a) any of the following occurs, or is likely to occur, at or near the licensed premises specified in the licence and the Commissioner considers it appropriate to suspend the licence:
 - (i) an emergency or natural disaster;
 - (ii) riotous conduct;
 - (iii) a breach of the peace or threat to public safety; or
 - (b) the licensee, or their employee or agent, is the subject of an investigation for an offence against this Act in relation to the licensed premises specified in the licence and a police officer investigating the offence believes on reasonable grounds that the offence is likely to continue.
- (2) The Commissioner must:
 - (a) immediately give written notice of the suspension to the licensee, the Minister, the Chairperson of the Commission and the Director-General; and
 - (b) include in the notice the period of suspension and reasons for the suspension.

48C Annual report to Minister

- (1) The Commissioner of Police must give a report to the Minister that provides the following information for each financial year:
 - (a) the number of suspensions imposed by the Commissioner under section 48B(1) during the financial year;
 - (b) the licences that were suspended;
 - (c) the periods during which those suspensions had effect.
- (2) The report for a financial year must be given to the Minister within 3 months after the end of the financial year.

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- (3) The Minister must table a copy of the report in the Legislative Assembly within 7 sitting days after the Minister receives the report.

6 Part VIIIC inserted

After section 101ZI

insert

Part VIIIC Point of sale intervention

101ZJ Definition

In this Part:

alcohol-related offence means an offence against this Act or the *Alcohol Harm Reduction Act 2017*.

101ZK Point of sale intervention powers – customer

- (1) A police officer or inspector may exercise a power under this section in relation to a person (the ***customer***) if:
- (a) the customer is on licensed premises or within 20 m of:
 - (i) an entrance to the premises; or
 - (ii) an entrance to the building containing the premises; or
 - (iii) a driveway or car park for the premises; and
 - (b) the customer appears to be purchasing or intending to purchase liquor for consumption away from the premises.
- (2) The officer or inspector may require the customer to do any of the following:
- (a) state the customer's name and address;
 - (b) state where the customer intends to consume the liquor;
 - (c) show the customer's approved identification as defined in section 31A(4);
 - (d) answer questions about the information contained in the approved identification:
 - (i) to confirm that the information is accurate; and

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- (ii) to find out if the customer is prohibited from consuming liquor at the place stated for paragraph (b) or in general;
 - (e) state whether the customer intends to provide any of the liquor to another person.
 - (3) If the customer appears to intend to provide any of the liquor to another person, the officer or inspector may also require the customer to answer questions about the other person, to find out if the other person is prohibited from consuming liquor.
 - (4) The officer or inspector may investigate whether either or both of the following apply to the customer or the other person:
 - (a) a prohibition mentioned in section 31A(2);
 - (b) a bail condition as defined in the *Bail Act* relating to liquor, for a bail granted under Part 3 of that Act.
 - (5) If the officer or inspector suspects on reasonable grounds that an alcohol-related offence is likely to occur, the officer or inspector may do either or both of the following:
 - (a) seize a container purchased by the customer that the officer or inspector has reason to believe contains liquor;
 - (b) prevent the customer from entering or remaining in the premises.
 - (6) If the officer or inspector believes on reasonable grounds that the approved identification is fictitious or false in a material particular, the officer or inspector may seize the identification.

101ZL Point of sale intervention power – licensee

- (1) This section applies if a police officer or inspector:
 - (a) exercises a power in relation to a customer under section 101ZK; and
 - (b) suspects on reasonable grounds that an alcohol-related offence is likely to occur.
- (2) The officer or inspector may direct that the licensee of the premises and the licensee's employees must not sell liquor to the customer for the remainder of the day on which the direction is given.
- (3) A person given a direction under subsection (2) must take all reasonable steps to ensure that the direction is complied with.

101ZM Police officer and inspector obligations

- (1) If a police officer or inspector seizes a container under section 101ZK(5)(a), the officer or inspector must destroy the contents of the container as soon as practicable.
- (2) If a police officer or inspector gives a direction under section 101ZL(2), the officer or inspector:
 - (a) must give the name of the customer to the licensee or employee; and
 - (b) may give other information about the customer to the licensee or employee to enable the licensee or employee to identify the customer.

101ZN Failing to comply with requirement

- (1) A person commits an offence if the person fails to comply with a requirement given to the person under section 101ZK(2) or (3).

Maximum penalty: 50 penalty units.

Note for subsection (1)

It is an offence against section 106BE to provide false information to a police officer or inspector.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) Subsection (1) does not apply if:
 - (a) the requirement was given by a police officer who was not in uniform and who did not produce their police identification after the person asked to inspect it; or
 - (b) the requirement was given by an inspector who did not produce their identity card after the person asked to inspect it; or
 - (c) the police officer or inspector did not, before giving the requirement, warn the person that failure to comply with the requirement is an offence.

Note for subsection (3)

The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).

101ZO Failing to comply with direction

- (1) A person commits an offence if the person:
- (a) is given a direction under section 101ZL(2); and
 - (b) fails to take all reasonable steps to ensure that the direction is complied with.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person has a reasonable excuse.
- (4) A police officer or inspector may lodge with the Director-General a complaint under section 68 in relation to an offence against this section.

101ZP Sharing information

Despite section 9 of the *Information Act* and the operation of any other law of the Territory that prohibits or restricts the disclosure of information, a person may disclose information that is requested or collected under this Part for the purposes of enforcing this Part.

101ZQ Point of sale intervention powers do not limit other powers

A power conferred by this Part on a police officer or inspector is in addition to, and does not limit, any other power the officer or inspector may have under this Act or another law in force in the Territory.

7 Section 106BE inserted

After section 106BD

insert

106BE Providing false information to police officer or inspector

- (1) A person commits an offence if:
- (a) the person intentionally gives information to another person; and
 - (b) the other person is a police officer or inspector; and

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- (c) the information is false in a material particular and the person is reckless in relation to that circumstance; and
 - (d) the police officer or inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units or imprisonment for 6 months.

(2) Strict liability applies to subsection (1)(b).

(3) In this section:

acting in an official capacity, in relation to a police officer or inspector, means the officer or inspector is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

8 Repeal of Act

This Act is repealed on the day after it commences.