



## Great Opportunities for Western Australian Producers but Distilleries Forgotten

At last some exciting opportunities for producers to increase profits from their cellar door.

In the June 2015 budget the State Government decided to scrap the Cellar Door rebate, which we thought did not make sense and could only have a negative impact on the wine industry and the tourism industry. Now at last some common sense is prevailing with some sensible amendments to the *Liquor Control Act 1988* (the **Act**) that will give producers including wineries, breweries and distilleries some new opportunities and bring liquor licensing laws more in line with other states.

After over three years of consultation and reviews, the amendments to the Act have finally been introduced into Parliament and the first stage of amendments are expected to come into effect soon.

Whilst only a handful of the 141 recommendations directly impact on Licensees of Producer's Licences, the amendments have the ability to provide substantial benefits to producers and it is important that producers are aware of the proposed changes and are ready to take advantage of the legislative changes as soon as they are implemented.

Some of the proposed changes include the following:

### 1. Collective cellar doors

It is proposed that a producer will be able to have a "collective cellar", that is, share a cellar door outlet with one of more other producers within the same region as their production facilities. This will create good opportunities for producers to share the significant costs of having a cellar door outlet. It will also create some great destination "collective cellar door" outlets that will assist the tourism industry. The licensing authority will want to see that there is a management agreement in place.

We have been involved in establishing similar cellar door outlets in South Australia such as Artisans of the Barossa which have proved to be incredibly successful.

### 2. Comparative tastings

This will allow licensees to offer similar liquor that is not their "own product", during a tasting as a comparison. So if you want to try a particular wine, beer or spirit against a bench mark wine, beer or spirit from another region (for example, trying a Margaret River Chardonnay against an Adelaide Hills Chardonnay) you will be able to do so.

### 3. Beer producers to sell their own product on premises

We have seen breweries previously having to apply for a tavern licence or a restaurant licence accompanied with a producer's licence in order to be able to serve their own beer for consumption at the brewery, something that wineries have been able to do for some time. This problem will soon be overcome with the producer's licence being amended to allow beer producers to sell their own product for consumption on the licensed premises between 10am and 10pm.



#### 4. Distillers are forgotten

Breweries are included in the proposed amendments for on-sight consumption. However, distilleries have been completely forgotten and over looked. The local WA distillery industry is relatively small with only a few distilleries in the whole state and their interests as cellar door operators have not been voiced or heard to date.

The Distilled Spirits Industry Council of Australia (**DSICA**) provided some submissions to the Independent Review Committee of the Liquor Control Act. However, there were no submissions in relation to section 55 involving the trading rights of a producer's licence (including Distillers). The DSICA is made up of mainly the large international spirit manufacturers such as Bacardi Lion Pty Ltd, Beam Global Australia Pty Ltd and Bundaberg Distilling Company Pty Ltd and their submissions were not necessarily concerning the small local distiller.

In our opinion there should be no distinction between wine producers, beer producers and spirit producers. We believe all producers should also be given an opportunity to showcase their product and in a form that the customers want to consume it, whether that is a glass of wine, pint of beer or a spirit with a mixer. There appears to be a fear factor around distilleries being a producer of spirits. However, the fact is a standard drink of a spirit is no different to a standard drink of a beer or wine. A full strength beer (5% alcohol) of 425mls is 1.6 standard drinks, a glass of red wine (13% alcohol) of 150mls is 1.5 standard drinks and 30mls of neat spirit (40% alcohol) is 1 standard drink. Furthermore, a spirit of 15mls neat is 0.5 standard drinks and a spirit of 15mls with 250ml of a mixer is still 0.5 standard drinks.

We recently saw a decision where the distillery was refused an application to vary the licence conditions to remove a condition that prohibited them selling a mixer with a tasting of 15mls (half a standard drink) of their moonshine (40% alcohol) that they had produced. To me this just does not make sense and a spirit should be able to be tasted in the form that a customer would prefer to drink it, not just neat with no-mixer. It does not showcase the product to the consumer if they cannot consume it how they would prefer.

#### 5. Any liquor (not just the licensees own product) in a dining room

Previously a licensee would need to apply for a separate restaurant licence for the dining room if they wanted to serve beer or any other liquor (not their own liquor) with a meal. It is proposed that a separate licence is not required in order to be able to do this and a producer's licence will permit the sale of any liquor in a designated dining area.

#### 6. Farmers Markets

In recent years there has been an increase in the popularity of farmer's markets. However, the current position is a little restrictive and provides that a producer cannot run their own stalls at farmers' markets unless the farmers' market is in an agricultural region and they are represented by their producer's association for that region. Further, the sale of the liquor at the farmer's market is limited to an aggregate quantity of no more than 2.5 litres or by way of an order taken for the sale or supply at a future date. Recommendation 68 seeks to amend the Liquor Control Regulations to allow wine producers to attend any farmer's markets and to sell up to 9 litres of their wine.



7. One licensed area

Currently section 110(3) of the Act provides that it is an offence, where a producer has a producer's licence and another licence, to allow a patron to walk between the two licensed areas with an alcoholic beverage. It is often the case that a winery or brewery may have the cellar door operating with a producer's licence and the dining room operating with a separate restaurant in order to allow other liquor to be consumed. The recommendation will allow patrons to move freely between the two licensed areas. Similarly if an alfresco area was separated and operated with an extended trading permit then patrons would be able to move between the two licensed areas.

8. Telephone sales permitted to occur from anywhere

Another amendment proposed by the Independent Review Committee is to allow producers to conduct online and telephone sales from a place other than the licensed premises, provided the delivery of the liquor is from the licensed premises or premises previously approved for dispatch.

9. Wholesaler retail reduced to 4 litres

Many small producers who do not yet satisfy that they are a "genuine producer" by producing more than 5000 bottles per year acquire a wholesale licence. Currently any retail sales must be in quantities of at least 9 litres. It is proposed that this will be amended to only 4 litres.

Together these amendments will reduce red tape and enable producers to sell their liquor more widely and operate their premises more freely. The amendments provide an opportunity for all producers, no matter their size or location, to diversify their sales and take advantage of promoting their liquor to a wider market.

If you require any further assistance or advice on these amendments or other legal needs for your winery, please contact Murfett Legal by telephone on +61 8 9388 3100, via our website at [www.murfett.com.au](http://www.murfett.com.au) or email one of the following directors:

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