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Dear Michael O'Brien,

Re: *Liquor Control Reform Amendment (Enforcement) Bill 2008*

Thank you for the opportunity to comment on the above Bill. Liberty Victoria does not have the expertise or resources to comment on the overall effectiveness of the Bill, but does offer the following comments.

Generally speaking, liquor licensing is not within the purview of a civil liberties organisation such as Liberty Victoria. However, like many pieces of legislation that are not ostensibly concerned with civil liberties, liquor licensing has the capacity to adversely impact on civil liberties; in this particular Bill, the right to privacy and the right to freedom of association.

Liberty Victoria supports the proper and responsible selling of liquor and recognises that it is an area that requires Government regulation and enforcement. Any legislation which provides a comprehensive and uniform approach to this task is to be applauded. Nonetheless, care must be taken to ensure regulatory requirements do not overshadow civil liberties.

The Bill creates a new class of authorised persons with investigatory and enforcement powers. As with any legislation that bestows significant powers on individuals, the power should be limited and the individuals that wield it, accountable.

Clause 6 of the Bill provides that an authorised person (the Director, a compliance inspector, a member of the police force, or a person authorised by the Director) may inspect a club licence at anytime. Ideally this power of inspection would be limited to the club's hours of operation or other reasonable times (e.g. as limited under clause 19). Moreover, the authorised person should only inspect a club's licence in the execution of his or her official functions.

Clause 8 of the Bill provides that the Director may require a licence holder to fit security cameras to any object (land, building or otherwise) within the licensee's control. Without further justification, this provision is unreasonable. Under this clause, the Director would be able to require a licensee to fit a surveillance camera in his own home without regard to the privacy of the licensee or anyone else. Any requirement to fit security cameras should be limited to objects within the licensee's control and which are relevant to the licensee's business. Moreover, security cameras should be fitted in toilets, change rooms or other areas where the community has a high expectation of privacy.

The powers to summarily suspend a licensee's license in clauses 11, 12 and 13 are noted with concern. Although these do not directly impact upon civil liberties, they grant authorised

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persons significant power over a licensee in situations where the licensee has already ceased the *suspected* offending behaviour.

Clause 18 empowers a compliance inspector to obtain the age, name and address of anyone suspected to be a minor in a wide range of circumstances. It also grants the compliance inspector the power to seize any suspected liquor and identity documents. If granted at all, this power should be limited to suspected minors either on licensed premises or immediate surrounds.

The expanded seizure powers (see Clause 19) should ensure that any item seized which is critical to the operation of the business is returned to the licensee as soon as practicable. It is foreseeable that items such as a computer might be seized and held for extended periods of time. Ideally such items would be copied and returned to the licensee (i.e. as required in the case of documents).

Ultimately the Bill extends several “police powers” to authorised persons. From a civil liberties perspective, the extension of these powers to other arms of government is a worrying trend. The Bill does contain some safeguards, but as identified above, they do not go far enough.

Kind regards,



Georgia King-Siem

Vice-President
Liberty Victoria