

Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Bill

Government Bill

As reported from the Justice and Electoral Committee

Commentary

Recommendation

The Justice and Electoral Committee has examined the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Bill and recommends that it be passed with the amendments shown.

Introduction

The bill seeks to clarify minor issues identified with the Sale and Supply of Alcohol Act 2012. It would do this by permitting low-alcohol and non-alcoholic beer, wine, and mead to be displayed for sale in the “single area” of supermarkets. It would also clarify that a company can hold a licence under the Act.

Definition of working day

We recommend replacing the definition of working day in section 5(1) so that a working day does not include a Monday after a weekend on which either Waitangi Day or Anzac Day falls. This reflects the changes to public holidays made by the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013.

Displaying low-alcohol and non-alcoholic beer, wine, and mead in the “single area” of supermarkets

The “single area” of supermarkets is the one area in a supermarket where alcohol can be displayed for sale. The purpose of this rule is to limit shoppers’ exposure to alcohol products. Currently, low alcohol and non-alcoholic beer, wine, and mead products cannot be displayed in the single area of supermarkets because they do not fall within the definition of alcohol.

Clause 5 of the bill would amend section 114 to allow for low-alcohol or non-alcoholic beer, wine, or mead to be displayed, promoted, or advertised within the single area. Low-alcohol beer, wine, and mead is defined as any beer, wine, or mead permitted to be sold in supermarkets that contains less than 1.15 percent ethanol by weight.

We support the intent of the amendments to allow for low-alcohol and non-alcoholic beer, wine, and mead to be displayed in the single area of supermarkets. However, we were initially concerned that displaying these products in the single area is discretionary. That is, a supermarket may display low-alcohol and non-alcoholic beer, wine, and mead in the single area of supermarkets, but it does not have to.

The decision on where to place these products is discretionary so soft drinks that have low alcohol content, such as ginger beer and fermented fruit drinks, are not put in the single area. Conversely, it allows for non-alcoholic beer, wine, and mead to be placed in the single area even though these products do not have any alcohol in them. It is desirable for these products to be placed in the single area because they are marketed like alcoholic drinks and are an increasingly popular alternative to full strength beer, wine, and mead.

We considered alternatives to this discretionary approach. However, the evidence and advice we received ultimately demonstrated that the provisions of the bill as drafted are the best way to ensure that low-alcohol and non-alcoholic beer, wine, and mead are appropriately displayed in supermarkets. We note that the supermarkets we heard from were committed to displaying alcohol in the single area.

A company can hold a licence

The Sale and Supply of Alcohol Act lists only body corporates as being able to hold a licence. We were advised that this may be because “body corporate” is a broad concept that includes companies. Clause 4 of the bill would amend section 28 of the Sale and Supply of Alcohol Act to clarify that a company within the meaning of the Companies Act 1993 can hold an on-licence, off-licence, or special licence.

Appendix

Committee process

The Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Bill was referred to the committee on 5 May 2016. The closing date for submissions was 9 June 2016. We received and considered 30 submissions from interested groups and individuals. We heard oral evidence from six submitters. We received advice from the Ministry of Justice.

Committee membership

Jacqui Dean (Chairperson)

Jacinda Ardern

Christopher Bishop

Marama Fox

Jono Naylor

Denis O'Rourke

Maureen Pugh

Metiria Turei

Hon Louise Upston

Louisa Wall

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Bill**

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

Hon Amy Adams

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Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
<u>3A</u> Section 5 amended (Interpretation)	<u>1</u>
4 Section 28 amended (Who can hold on-licences, off-licences, and special licences)	2
5 Section 114 amended (Effect of single-area conditions)	2

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Sale and Supply of Alcohol (Display of Low-alcohol Beverages and Other Remedial Matters) Amendment Act **2015**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Sale and Supply of Alcohol Act 2012 (the **principal Act**).

3A Section 5 amended (Interpretation)

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In section 5(1), replace the definition of **working day** with:

working day means a day of the week other than—

**Sale and Supply of Alcohol (Display of Low-alcohol
Beverages and Other Remedial Matters) Amendment
Bill**

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- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) a day in the period commencing on 20 December in any year and ending with 15 January in the following year. 5
- 4 Section 28 amended (Who can hold on-licences, off-licences, and special licences)**
- (1) After section 28(1)(b), insert:
- (ba) any company within the meaning of the Companies Act 1993 that is not prevented by a restriction in its constitution (if any) from selling alcohol or from holding a licence (or a licence of the kind or kinds concerned); or 10
- (2) In section 28(1)(f), after “body corporate,”, insert “company,”.
- 5 Section 114 amended (Effect of single-area conditions)** 15
- (1) After section 114(4), insert:
- (4A) The effect of a single-area condition set out in subsections (1) to (4) does not apply in relation to the display or promotion of, or the advertisement for, low-alcohol or non-alcoholic beer, wine, or mead.
- (2) In section 114(5)(c), replace “section 113(3)(b).” with “section 113(3)(b); and”. 20
- (3) After section 114(5)(c), insert:
- (d) **low-alcohol or non-alcoholic beer, wine, or mead** means a product that is specified in section 58(1)(a) to (d) but that is not alcohol.

Legislative history

7 December 2015
5 May 2016

Introduction (Bill 114–1)
First reading and referral to Justice and Electoral Committee