The Scottish Tourism Alliance
British Hospitality Association

Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill

The Scottish Tourism Alliance (STA) is pleased to have the opportunity to submit this response to the Scottish Government. We do so also on behalf of the British Hospitality Association (BHA) Scotland who fully concur with our response.

Description of the STA

The STA is an independent trade body comprising of sector associations, businesses, and marketing and local area tourism groups who earn their living from tourism or have an active interest in tourism. Approximately 75% of Scotland’s 21,000 tourism business that employ between them 210,000 people are directly connected to the STA via a form of Alliance, Affiliate or Associate membership.

The STA is acknowledged as being “The Tourism Industry Leadership Group" a primary role of the STA is to be a representative voice of industry to government and agencies on matters that impact the potential growth of tourism, to provide support to the industry.

In addition to the above the STA are the empowered guardians and co-ordinator of Scotland’s national Tourism Strategy “Tourism Scotland 2020” that was launched in June 2012.

About the British Hospitality Association

The BHA is the leading agenda-setter and members organisation for the hospitality and tourism industry in the UK. Its role is to promote the interests of operators, brands and owners across hotels, restaurants and food service, serviced apartments, clubs and visitor attractions. The BHA shapes the future of hospitality and tourism as a driver for international competitiveness, economic growth and valuable careers – to ensure British hospitality and tourism is the best in the world. BHA represents a wide range of independent and most major, branded hospitality businesses in Scotland.

The Association’s purpose is to work with the UK and devolved governments to ensure the right business environment in which Hospitality and Tourism can thrive.

General Considerations

We are disappointed to note that this is another proposed amendment to the law relating to alcohol licensing in Scotland and wish to stress the problems that the hospitality industry and their advisors are encountering thanks to the problems of interpreting the much amended Licensing (Scotland) Act 2005 and other relevant legislation. We support the calls for consolidated legislation so that the law relating to all licensing could be easily found and understood. Making the law intelligible is surely an aim of the Scottish Government and it
would assist in compliance and ease the burden on our members and others involved in the industry.

With reference to the questions contained in the call for evidence, we should like to respond as follows.

**Question 1: Do you support the Bill as a whole**

The STA and BHA both support the Scottish Government’s aim to reduce alcohol harm in Scotland. We note that alcohol consumption and related harm and alcohol related crimes have been falling year on year for over 10 years.

We do not support further amendment to the laws relating to licensing as they are becoming too complex to follow or understand.

**Question 2: Do you support particular provision in the Bill**

Please see our response to question 1 above.

**Question 3: Do you have concerns about particular provisions in the Bill?**

Yes, for the following reasons

**Section 1: Minimum price of packages containing more than one alcoholic product.**

This section is extremely complicated and likely to lead to confusion. It is especially hard for smaller sole traders to keep abreast of the legislation. Their businesses many of which serve remote communities are of vital importance and are required not only to serve locals but also tourists the main stay of much rural Scotland. The proposal appears to further restrict the sale of larger packages of alcohol where a smaller package of the same alcoholic products is also on sale and in the same proportion. It does not apply where there are non-alcoholic items in the package. It might lead to premises only offering larger packets of alcohol products which would be contrary to the protection of public health objective as it would encourage customers to buy more than they had originally intended.

**Section 2: Alcoholic drinks containing caffeine.**

Neither the STA nor the BHA agree with this proposal. We fail to see the difference between a mixed alcohol and caffeine drink and the effect of selling the items individually to mix as a “cocktail” or where patrons consume alcohol and then resort to coffee or teas thereafter. The hospitality industry offers coffee and alcohol across the piece and this proposal does not make any real sense.
Section 3: Age discrimination: Off-sales

This proposal would prevent Boards having an ability to impose a condition on an off-sales licence to the effect that sales should be restricted to persons of “a higher age” than 21.

We question whether this is in practice an issue and have no comment to make.

Section 4: Container marking: off-sales

Neither the STA nor the BHA believe this proposal would have any positive effect. The fact is and UK wide research has demonstrated this that alcohol is often legitimately purchased by adults and then young person’s access that alcohol in the family home either with or without consent. We do not see that bottle marking would help prevent this practice. We believe the effect of this proposal would potentially be to increase the financial and administrative burden on smaller convenience stores to their certain detriment and to the harm of local communities and tourism alike.

Section 5: Applications for, or to vary, premises licence: Consultation and Publicity

We believe that there is at present no direct link between the lack of a community Council in a Licensing Board’s area and notification of neighbors. The proposal to increase the requirement to notify persons living within 50m of any applicant premises is concerning.

The proposal will have a huge effect application costs as local government and licensing boards will require to gather in the extra costs from applicants. This will have the effect of preventing smaller players from making applications to the severe detriment of choice of venue and type of offering. This in itself could have the effect of harming diversity in the industry and the promotion of Scotland as a food/ tourist destination if only chains were able to access the market.

We also note that the notification period is to be increased from 21 to 42 days which will delay applications being put to Board meetings for a decision to be made. We believe it is unlikely that the additional period suggested will have any effect other than that of delaying a hearing.

Section 6: Ban on alcohol advertising near schools etc.

We have no comment to make other than the proposal as currently drafted could lead to persons being prosecuted for wearing a T-shirt or other garment bearing a drinks company logo outside a school.

Section 8: Advertising within licensed premises.

We note it is already an offence to promote alcohol except within the designated alcohol areas in mixed use retail premises with off sales facilities.
Section 9: Advertising at sporting and cultural events.

We are concerned that this provision will apply to all sports and cultural events, many of which are of course run by volunteers who would not be aware of this new offence.

We also question the meaning of “intended audience” at section 9 (1) (b) of the Bill. Could this include television/internet audiences etc.?

What is more without pubs/hotel/ restaurant and local convenience stores support for many local sports teams and other events these teams and events would lose funding and this lack of funding could be said to reduce the public good which can come from alcohol sales to the detriment of the nation’s health.

We accordingly question the benefit to be gained from and enforceability of this proposed offence.

Section 15: Drinking banning orders

We question the need for this proposal given the fact that in terms of section 94 of the Licensing (Scotland) Act 2005 a person convicted of a violent offence on or in the immediate vicinity of any licensed premises can be prohibited from entering the licensed premises concerned or such other licensed premises as the court may specify in the order accept with the appropriate consent.

We call into question the resources of the police and public authorities to apply for, obtain and monitor these orders.

In particular, it may be that, in rural Scotland, someone could find himself or herself subject to a drinking banning order from premises where those premises may be their nearest or only source of food or petrol.

Section 16: Duration of Drinking Banning Orders

See above

Section 31: Offences Involving Alcohol: Notification of Offender’s GP (Comments from Privacy Committee required)

We consider that competent GPs would no doubt be aware of a patient’s state of health as a result of misuse of alcohol and question the requirement for this provision.

Question 3: How will the particular provisions in the bill fit with your work, or the work of your organisation?

We believe these provisions will be of disbenefit to the hospitality industry in Scotland and will only add to the confusion which currently obtains and make it harder to have real choice in the hospitality industry.
Question 4: Will the Bill have financial or resource implications for you or your organisation?

Yes as we will have to take care to ensure our members - numbering some c15,750 (this being approx.75% of the business that we believe operate in Scotland’s tourism and hospitality sector) are kept informed of these proposals and changes. The proposals to increase neighbor notification will make applications far more expensive and will deter smaller players who often bring diversity into the industry being priced out of the market.

Question 5: Do you have any other comments for suggestions relevant to the Bill?

Yes

We would like to see proper measures in place to ensure the smooth transfer of licences in Scotland as we are aware that great problems can occur when businesses are being transferred. We do not see the need for consent to be obtained when applicants can demonstrate a proper right to occupy premises whether by ownership, lease, sale or other permission. We are aware of the issues which can be caused when a defaulting / evicted tenant refuses to consent to a transfer of licence. This can lead to premises remaining closed to the detriment of business, investment and ultimately townscapes all of which impact on tourism and the general economy.

We would like to see the return of a site only premises licence to enable investors and developers to test the water at reasonable cost without having to prepare costly detailed plans which may have no bearing on the ultimate reality of an application. We believe this would encourage investment.

We would like to see the return of the ability for a surrendered licence to be revived by transfer for the following reason:

1. To prevent premises being lost due to the actions of disgruntled tenants - we are aware that in England and Wales landlords can register with local government to ensure their interests are preserved and licences can be transferred in these circumstances

This would enable premises owners to confidently lease premises to tenants who would hold premises licences and rightly in our view those tenants would be responsible for the running of the premises and compliance. The present situation is that in order to prevent surrender pubcos and other players are required to hold the premises licences. They are then in the peculiar position of being able to be held responsible for the actions of arm’s length tenants while not being able to actively run the premises on a day to day basis. This causes uncertainty and a lack of confidence in the market which can and does lead to a lack of investment in the Scottish rental market to the detriment of the local tourist trade.

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