Scottish Wholesalers Association

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

This Stage 1 submission is made on behalf of the Scottish Wholesale Association. The SWA is the official trade association for Scotland’s food and drink wholesaling businesses. Wholesale Members of the Scottish Wholesale Association are located across Scotland and include single-depot, family-owned businesses as well as national wholesale companies and buying groups. Many SWA members have retail interests, particularly in local convenience stores, as well as supplying thousands of independent retailers. Wholesalers also supply food and drink to restaurants and caterers as well as to pubs and other licensed premises. SWA Supplier Members include drinks companies.

The SWA doesn’t support the Bill as a whole however we do welcome some sections of the proposed legislation. On a broader point we believe that Scotland’s licensing legislation is in urgent need of consolidation and simplification. The Bill is the sixth piece of licensing legislation since the Licensing (Scotland) Act 2005 became law. The only people who understand Scotland’s licensing regime are licensing lawyers yet wholesalers, retailers and consumers are meant to act within the law.

Many SWA members are operating across the country which means they have to be aware of the policies of 32 licensing boards as well as the legislative framework. We appreciate that local Boards wish to look at the needs of their own geographic area rather than have a one size fits all approach however this adds complexity and costs onto businesses.

The Bill’s provisions represent a mixed bag so far as SWA members are concerned. Those who have licensed on or off sales premises will be more likely to be directly affected by provisions however those who supply such businesses will be affected indirectly.

Section 1 - Minimum price for packages containing more than one alcoholic product.
This would close a perceived loophole in the existing law which prevents retailers selling multiple units of alcohol at a discount in comparison to the price of a single unit.

The Bill’s Financial memorandum says – “Business impact - Alcohol producers, distributors and retailers are likely to experience a reduction in sales, although this may be at least be partially offset (for retailers in particular) by higher per-unit prices for larger multi-packs. Given the degree of uncertainty about the extent to which sales will be affected, it has not been possible to forecast what the overall implications for these businesses might be” SWA are disappointed that the Parliament intends to move forward despite the lack of information as to the effect of the Legislation on sales.

SWA believe this will create a culture of selling at the minimum unit price which could have detrimental impact particularly in small stores. There is a
danger that this will potentially displace a secure route to market for the supply of alcohol – if suppliers/brand owners believed that there was more margin to be made from the route to market in Scotland and charged a higher price for their products then this would encourage wholesaler to look to source products not directly from the brand owners which could create an environment of significant increased workload for HMRC. If that situation were to arise, independent Scottish wholesalers would also be left in an uncompetitive environment versus the National wholesale groups whose head offices are based in England for example.

We also feel that there is a possibility that “Booze Cruises” into the North of England would be stimulated by this legislation. Consumers travelling and purchasing alcohol there would further displace trading in Scotland.

High strength Cider for example would significantly increase in price as a result of this legislation so a product like this could be driven underground. Illicit traders could decide to purchase bulk volumes of High strength cider by posing as a retailer in a wholesale environment. He could then sell that much cheaper than any retail outlet could – his crime would be selling alcohol without a licence which doesn’t really carry much of a penalty nor would this be prioritised by Police. The impact on the streets needs to be carefully considered.

Section 2 - Alcoholic drinks containing caffeine
This would place a restriction on the caffeine content of pre mixed alcoholic drinks. SWA believe that the Scottish Parliament in partnership with the alcohol industry and other partners should focus on educating people about the responsible use of alcohol generally rather than just focussing on one type of alcoholic product. We appreciate the Committee may receive evidence that the combination of alcohol and caffeine leads to particular anti social behaviour and we will take a keen interest in the Committee’s evidence taking in this regard.

Section 3 - Age discrimination in off-sales
SWA welcome the proposal to prevent licensing boards banning sales to under-21s as a condition of a premises licence. The legal age to purchase alcohol is 18 and we should stick to that. This would not stop retailers still adhering to initiatives such as Challenge 25 which SWA have supported.

Section 4 - Container marking in off-sales
SWA appreciate the important role “bottle-tagging” can play. However, we would want to be sure that this was being applied consistently across all trade channels. The ability to vary license costs should be looked at carefully as this has a far greater impact on small business than on larger retailers.

Section 5 - Applications for, or to vary, premises licence
This would change the requirements to notify and publicise such applications with the intention of increasing community involvement. This would double the length of time for consultations on applications. SWA wish to see communities engaging in licensing decisions but believe that doubling the length of time for consultation is excessive and likely to generate further costs to business.
SWA are also concerned at the proposal that if a notice has been removed the process will be extended. This may cause unacceptable delays.

We note the financial memorandum which says “Additional consultation by a Licensing Board would not directly increase the cost to the applicant. However, should the fees payable for an application for, or to vary, a premises licence be increased to offset some or all of the Board’s additional costs (as outlined above), then a proportion of the £180,000 additional annual cost would be transferred to applicants instead.”

SWA believe that this approach will obviously increase the length of time it takes to apply for a licence. This represents further cost on businesses and greater bureaucracy. SWA believes that streamlining and simplifying licensing legislation would assist communities, businesses and local authorities.

**Sections 6-13 - Restrictions on advertising**
SWA is generally supportive of the principle behind the part of the Bill which would limit alcohol advertising near places (such as schools) used by children and at events targeted at children. This would have an impact on any retail licensed premises close to schools or playgrounds etc. It would ban advertising – including posters, billboards, A boards on pavements and shop window displays of bottles/cans - outside relevant pubs/shops. Advertising can continue inside the premises so long as they are visible principally from within. There would need to be further clarity on this provision.

It also limits (Section 8) the advertising of alcohol within licensed premises. This would permit, for example, alcohol advertisements being displayed in those aisles of a supermarket where alcoholic drinks are on display, but not in the food aisles. This might well cause issues for smaller retailers who have already been affected by advertising restrictions on alcohol and cigarettes.

**Section 14 - Alcohol education policy statements**
SWA support the proposal that the Scottish Government should publish, and review, an alcohol education policy every five years.

**Conclusion**
Do you support the Bill as a whole? **No**

Do you support particular provisions in the Bill? **Yes**

Do you have concerns about particular provisions in the Bill? **Yes – see above**

How will the particular provisions in the Bill fit with your work, or the work of your organisation? **SWA feel the time extension to Licence Applications will make things harder for our members. We would seek further clarity around the advertising restrictions in premises.**
Will the Bill have financial or resource implications for you or your organisation? Yes. Very much so for our members who are producers, suppliers and retailers of alcohol.

Do you have any other comments or suggestions relevant to the Bill?

SWA believe there is now an over provision of licensing legislation and this should be simplified and consolidated to be more accessible and understandable to both trade and public. SWA would also wish to see greater consistency of approach between licensed Boards. The trade are looking for consistency of approach in terms of all Licensing interpretation. It is incredibly difficult for a retailer who owns stores in a number of different locations across Scotland when they need to alter their business to suit individual LSO interpretations. Clearer and consistent guidelines need to be created within any policy.

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