

The Victorian Liberal Nationals Coalition Plan For Liquor Licensing



THE LIBERAL NATIONALS COALITION PLAN FOR LIQUOR LICENSING

Many Victorians and visitors to our state responsibly consume alcohol each and every day.

Whether in pubs, clubs, restaurants, nightclubs, bottle stores or other venues, liquor and its allied industries employ tens of thousands of Victorians.

However, as alcohol is a drug, it is appropriate for the state to regulate its distribution strictly. This is the task of our liquor licensing system. A major objective of that system is to minimise harm arising from the misuse and abuse of alcohol.

Public confidence in the Labor Government's handling of liquor licensing is at rock bottom. A series of knee jerk reactions and political stunts have failed to tackle the rising tide of alcohol related violence that has swamped Victoria in recent years.

Liquor licensing laws should be easily understood by licensees and patrons. The laws should be easily understood by those charged with enforcing them and there should be sufficient enforcement such that licensees and patrons take seriously their responsibilities under the law.

Many people other than licensees and their patrons are affected by liquor licensing issues. The residents and businesses in the vicinity of licensed premises can be affected, but so is the citizen who is fearful of entering Melbourne's CBD after nightfall because of the prospect of being the target of alcohol-fuelled violence.

So is the pedestrian who suffers permanent injury caused by a drunk driver.

The potential for widespread harm through the abuse of alcohol means the entire community has an interest in the responsible regulation of liquor licensing.

This is why a Liberal Nationals Coalition Government will introduce major changes to the operation of liquor laws to deliver a system of responsible liquor licensing contributing to a vibrant and safe community in Victoria.

The following principles will underpin our approach to responsible liquor licensing:

- **Prevention:** licensing policy should be directed to minimising, to the extent practicable, the misuse of alcohol rather than dealing with the consequences of that misuse.
- **Representative:** Liquor licensing should reflect community attitudes and values, while respecting that there will always be a diversity of views on such matters.
- **Certainty:** licensees and patrons need to know their respective obligations under the law.
- **Targeted:** the law should operate to restrain those who are most likely to cause harm, rather than unreasonably restricting the majority of licensees and patrons who act responsibly.
- **Enforcement:** vigorous enforcement will act as a specific deterrent to those who might break the law, but also provide confidence to the rest of the community.

Ted Baillieu | Leader
Victorian Liberal Nationals Coalition

Michael O'Brien
Shadow Minister for Consumer Affairs

LABOR'S FAILINGS

Labor's poor planning, resourcing, administration and enforcement of liquor licensing have all contributed to the shocking levels of alcohol-related violence in Victoria and the resultant loss of community safety, amenity and confidence.

The Labor Government has engaged in a steady stream of stunts and spin in an attempt to deflect public attention from its mishandling of liquor licensing issues.

- Hummers: Having the former Police Minister ride around Melbourne's CBD in a Hummer truck is no substitute for sufficient numbers of police officers being in and around the licensed venues.
- 2am trial lock-out: KPMG's evaluation noted that the number of reported post-midnight assaults and alcohol-related hospital presentations as a proportion of hospital presentations increased during the lock-out trial.
- Reduced policing of liquor licensing laws: Despite Labor increasing liquor licence fees by \$20 million, the 2010/11 budget provided for a 24 per cent reduction in the number of enforcement and compliance activities taking place.
- Taking away natural justice rights from liquor licensees: Labor has sought to prevent natural justice from applying to its administration of liquor licensing, a move strongly resisted by the Liberal Nationals Coalition.
- On basic issues of competence, such as enforcement, Labor has been found wanting. With nearly 20,000 liquor licences operating in Victoria, Victoria Police statistics showed that assaults have risen by 75 per cent.
- The Labor Government's massive liquor licence fee grab has failed to acknowledge the damage being done to licensees who bear no responsibility for the Labor Government's failure to keep our streets safe.
- The Labor Government's record demonstrates that it has failed in its duty to Victorians to regulate liquor licensing in the public interest and to keep our community safe.
- The regulation of liquor licensing in Victoria has become disjointed and fragmented under the Labor Government.

- As a consequence of the patchwork of conflicting roles and responsibilities created by the Labor Government, industry and the wider community can have no confidence in the administration of liquor licensing laws in Victoria.
- Live music venues like the Tote in Collingwood were forced to close and others faced massive security bills or had to stop supporting live music due the Government's enforcement of little used security requirements on live music venues. This was in spite of the Government's own reports showing no link between alcohol-related violence and live music and many of the businesses having no record of violence.
- Labor has fragmented the regulation of liquor licensing. The position of Director of Liquor Licensing is established by statute. The Director is responsible for the administration of liquor laws in Victoria in conjunction with Consumer Affairs Victoria and subject to review at VCAT. However, the Labor Government has established a new office within the Department of Justice to deal with liquor licensing policy: Responsible Alcohol Victoria (RAV).

The Labor Government has also established a Civilian Compliance Directorate (CCD) to enforce some (but not all) liquor licensing laws. The CCD reports to the Secretary of the Department of Justice, not the Director. Other liquor licensing laws may only be enforced by Victoria Police.

The Labor Government has sought to give more and more power to the position of Director of Liquor Licensing, notwithstanding the administrative failures which beset the trial 2am lockdown.

Significantly, the Labor Government fatally compromised the independence of the position of Director when the Premier usurped the Director's statutory authority in announcing that there would be no statewide 2am lockdown.

UNDER A LIBERAL NATIONALS COALITION GOVERNMENT:

A Liberal Nationals Coalition Government will:

- **Sweep away the confusion and bureaucracy of the current liquor licensing mess.**
- **Transfer the functions of the Director of Liquor Licensing, the Civilian Compliance Directorate and the monitoring/enforcement functions within Consumer Affairs Victoria to a new body – the Victorian Commission for Gambling and Liquor Regulation (VCGLR).**
- **Model the VCGLR on the operation of the Victorian Commission for Gambling Regulation (VCGR). It will feature a commission-style decision making structure which will determine licensing applications. Such a structure will be more amenable to public hearings and consultation than the current structure, and will better facilitate the use of expert commission members.**
- **Have a dedicated professional staff at the VCGR focused on education and enforcement of liquor licensing and gaming laws. As all gaming venues in Victoria must, by law, have a liquor licence, it is sensible that there be cohesive regulation of these two sensitive areas.**

Victoria's liquor licensing system has been in disarray for a number of years. Concerns regarding excessive secrecy, delays and a lack of communication have seriously damaged public and industry confidence in the existing regulatory structure.

A more collegiate approach to liquor licensing would better serve Victoria. By bringing together natural synergies from the administration of gambling licensing and liquor licensing, the new commission structure proposed for the VCGLR will deliver more effective and efficient regulation of both of these sensitive areas of public policy.

5-STAR RATING SYSTEM FOR LIQUOR LICENSEES

A Liberal Nationals Coalition Government will:

- **Introduce a 5-star rating system for liquor licensees that will reward responsible liquor licensees with discounts on their annual liquor licensing renewal fees.**

The Labor Government’s fee hikes have hit all liquor licensees, but provide no incentive for the majority who operate responsibly and within the law.

Good licensees with good track records should be recognised and encouraged to maintain the high standards Victorians expect from the industry.

To this end a Liberal Nationals Coalition Government will introduce a 5-star rating system for liquor licensees. Under the system, licensees will receive discounts on their liquor licence fee renewals where they had two or more consecutive years without incurring relevant infringements of licensing laws. Relevant infringements will be those relating to the presence or service of alcohol on licensed premises to minors or intoxicated persons.

The reforms will significantly revamp Labor’s liquor licence fee structure, which charges higher licence renewal fees where relevant infringements have been recorded by the licensee in the previous 12 months.

Under current liquor laws, licensees with a recent infringement history will pay much higher renewal fees. A Liberal Nationals Coalition Government will use fee increases attributable to infringements to provide discounted renewal fees for 4 and 5-star venues, ensuring the policy is revenue neutral and that, in effect, poor licensees are funding fee reductions for the most responsible licensees.

Under the Liberal Nationals Coalition policy, liquor licensees would receive a star rating based on the following criteria:

RATING	CRITERIA
1 Star	3 or more infringements in previous 12 months
2 Star	1-2 infringements in previous 12 months
3 Star	No infringements in previous 12 months
4 Star	No infringements in previous 24 months
5 Star	No infringements in previous 36 months

All licensees will commence at a 3 star rating, which will vary in subsequent years depending on performance.

A NEW APPROACH TO LIQUOR LICENCE INFRINGEMENTS – DEMERIT POINTS

A Liberal Nationals Coalition Government will:

- **Establish a driver demerit points style system applicable to liquor licences.**

The system will feature gradations of points depending on the seriousness of the offence. So, for example, serving a minor would carry more points than serving an intoxicated adult.

Each licence will have point numbers allocated depending on the class of licence, size of venue and any other relevant risk factors.

The system will operate in addition to the current system, so any breach or other circumstance serious enough to warrant immediate action to suspend or cancel a liquor licence would not be affected.

Concerns with the level of alcohol-related violence often focus on particular venues in particular areas of major cities in Victoria. Police have expressed frustration that regular breaches of liquor licensing laws that suggest a lack of responsibility on the part of licensees are often dealt with by way of a fine, yet no further action is taken.

Drivers on Victorian roads have become accustomed to the demerit points system where even relatively low level offences can, if they occur in sufficient numbers, result in the suspension of a drivers licence.

This system ensures that even those people with the means to pay a fine cannot escape responsibility for failing to observe the laws.

Given that many liquor licensing offences (such as selling alcohol to intoxicated persons) are driven by profit motives, the issuing of fines for lower level offences is unlikely to prove to be an adequate deterrent.

What is needed is a new system of penalties which highlights the risk to a licensee's business of failure to comply with liquor licensing laws and that doesn't depend on monetary fines alone as a deterrent.

As with the driver demerit points system, breaches can result in immediate suspension of a licence or longer suspensions depending on how many points are incurred and over what period of time.

Demerit points will be incurred for offences that are admitted by the licensee or proven in court where the licensee challenges the infringement.

Infringements involving the service of alcohol to minors or drunk persons, or the presence of such people on licensed premises, will incur demerit points. Points will expire after three years.

Demerit point thresholds will be set for different licence types. Reaching each threshold will automatically trigger liquor licence suspensions of 24 hours, seven days or 28 days. No appeal will be possible.

Unlike Labor's weak approach, the Liberal Nationals Coalition's demerit points system will automatically shut down bad operators.

LATE NIGHT VENUES - TRAINING AND LICENSING CONDITIONS

A Liberal Nationals Coalition Government will:

- **Maintain the freeze on new late-night licence applications in inner-Melbourne for at least 18 months.**
- **Audit late trading venues with large capacities to ensure that licensing and security conditions are appropriate to protect patrons and the broader community.**
- **Develop new Responsible Service of Alcohol (RSA) training aimed at owners and staff of late-trading venues to ensure that they are equipped with the appropriate skills to manage the particular challenges such environments pose.**

A number of large capacity nightclub venues in Melbourne's CBD, regional centres and elsewhere have been identified as significant problems for alcohol-related violence.

The proliferation of late trading "beer barns" under the Labor Government and the attendant rise in anti-social behaviour has damaged Victoria's reputation as a safe place to have a night out.

We will maintain a freeze on new late-trading venues in inner-Melbourne (the cities of Melbourne, Yarra, Stonnington and Port Philip), ensure that the conditions applying to existing venues are audited to ensure they are adequate to protect patrons and the broader community and step up RSA training for late-night venues in recognition of the particular risks such venues face.

COMBATING PUBLIC DRUNKENNESS AND MAINTAINING PUBLIC ORDER

A Liberal Nationals Coalition Government will:

- **Retain the current drunkenness offences in the Summary Offences Act.**
- **Increase the current infringement penalty for drunk and disorderly behaviour from four penalty units (\$478 in 2010-11) to five penalty units (\$597) for a first offence, and from five penalty units to 10 penalty units for subsequent offences.**
- **Introduce a new offence of remaining in the immediate vicinity of a licensed premise from which an individual has been refused entry.**
- **Introduce a new offence of re-entering a licensed premise within 24 hours of being refused entry to, or ejected from, the premises.**
- **Increase penalties by 150 per cent for failing to obey a direction to leave licensed premises when drunk, violent or quarrelsome.**
- **Introduce the power for licensees to issue barring orders from licensed premises.**
- **Ban those found guilty of any criminal assault committed under the influence of alcohol from being in any licensed premises where alcohol can be consumed for a minimum of two years.**
- **Strengthen the power of police to deal with minors in possession of alcohol.**
- **Return the decision making about a child's access to alcohol to parents by making it illegal to supply alcohol to a minor in a private home unless with parental consent.**
- **Support the work of "Step back. Think" in tackling alcohol-fuelled street violence amongst young people through increased funding.**
- **Encourage a culture of personal responsibility in relation to alcohol.**

Much street violence, vandalism and other crime is due to offenders who have had too much to drink and then cause trouble.

Labor has long wanted to decriminalise public drunkenness. However, drunkenness offences provide police with a valuable tool to keep obnoxious, alcohol-fuelled behaviour under control. Where people have a serious, on-going problem with alcohol, they need treatment and rehabilitation. However, when people have set out to deliberately get themselves drunk and are causing or likely to cause trouble on the streets, the police need the power to arrest them for their own protection and the protection of others.

We also need to send a strong signal that drunken, loutish and threatening behaviour on our streets will not be tolerated and that people who engage in such behaviour can expect a punishment that will hurt. However, Labor has taken a soft approach to this type of conduct over many years, which has led to Victoria reaping the consequences on our streets.

We will introduce new provisions to strengthen the hands of licensees and police to deal with and deter anti-social behaviour. Measures to be introduced will include:

- a new offence of remaining in the vicinity of a licensed premises having been ejected or denied entry;
- a new offence of returning to a licensed premises within 24 hours of having been ejected or denied entry;
- a 150 per cent increase in the “on the spot” fine for failing to leave a licensed premises when drunk, violent or quarrelsome; and
- a new power for licensees to bar individuals from premises, a breach of which will be punishable by fine.

These new measures are in addition to an automatic two-year ban from licensed premises where a person is convicted of a violent offence and alcohol is found to be a factor.

Under current Victorian law, at a party or in someone’s home anyone can supply alcohol to a child.

The Liberal Nationals Coalition believes that parents know what’s best for their children, and that parents alone should be able to make choices about their child’s alcohol consumption.

Banning the supply of alcohol to minors without parental consent will assist in reducing the consumption of alcohol by people aged under 18. The law is already in place in NSW, Queensland and Tasmania and it is time for it to be adopted in Victoria.

A Liberal Nationals Coalition Government will make it clear that there is no tolerance for the type of anti-social behaviour that has flourished under Labor.

PACKAGED LIQUOR LICENCES

A Liberal Nationals Coalition Government will:

- **Remove the current planning exemption for new packaged liquor outlets.**
- **Reform licensing fees for packaged liquor outlets to remove the anomaly that sees massive, supermarket-style outlets paying the same fee (or, in some cases, less) than small outlets.**
- **Adjust current licensing arrangements that see some large-scale packaged liquor outlets operate under a general liquor licence, allowing them lower fees and an unfair competitive advantage.**
- **Promote greater community awareness of legal prohibitions on the purchase of alcohol for minors.**
- **Provide for packaged liquor licence applications to be searchable by business name and/or postcode on the CAV website.**

The number of packaged liquor licences in Victoria has soared by 68.7 per cent from 31 December 1998 (1133) to 1 June 2010 (1956). The Government received the report of the Liquor Control Advisory Council into packaged liquor in March 2008 but has made no significant changes to the regulation of these licences.

The Labor Government has failed to respond to the recommendation that planning schemes no longer exempt applications for a packaged liquor licence from the requirement to obtain a planning permit.

This proposal was again recommended by the Parliament's Drugs and Crime Prevention Committee in September 2010.

The Liberal Nationals Coalition believes it is essential that communities have a say on the location and proliferation of packaged liquor outlets. By removing the exemption for such outlets from the requirement to obtain a planning permit, we will ensure that the legitimate interests of the local community can be taken into account through the planning process.

Under Labor, packaged liquor outlets are charged a flat fee regardless of their size. This fails to recognise the link between sales volumes and potential alcohol-related harm. It is also unjustifiable to charge a small, 'mum and dad' licensed grocer the same fee as a massive liquor supermarket.

Worse, licensing anomalies that Labor has refused to fix mean that a number of these liquor supermarkets operate under general licences, which attract a fee half that paid by packaged liquor licensees.

A Liberal Nationals Coalition Government will act to resolve these unfair anomalies to ensure that small businesses are treated fairly and that a genuinely risk based approach is taken to liquor licensing conditions and fees.

EASING THE LIQUOR LICENSING FEE BURDEN ON COMMUNITY CLUBS AND SMALL BUSINESSES

A Liberal Nationals Coalition Government will:

- **Cut liquor licensing renewal fees by more than 50 per cent for 11,000 community clubs and small businesses that pose little or no risk in relation to alcohol-related violence.**

The Labor Government has failed to stem a rising tide of anti-social behaviour and street violence that has hurt many Victorians and made many others fearful. The Labor Government's lazy response has included an across-the-board liquor licensing fee increases which has seen revenue projections rise from \$10 million in 2008 to \$15 million in 2009 to over \$35 million in 2010.

Clubs with full licences have seen fees rise from \$175.40 in 2008 to \$812.70 in 2010. BYO permits have leapt from \$116.90 to \$405.80 in the same period.

However, far from being the "risk-based" licensing fees the Labor Government promised, the reality has been an indiscriminate fee increase that has hurt many low-risk licensed venues including community clubs and small businesses such as vigneron. A number of clubs and businesses have surrendered their liquor licences because they are unable to pay the increased fees.

Labor's attack on community clubs and small business is damaging the social glue that binds our community. Sporting clubs, service clubs and charitable organisations have all been hit hard by the Labor Government's liquor licensing tax grab.

Labor has belatedly acknowledged that bed & breakfast establishments, florists, butchers, giftmakers and hairdressers should not be required to hold

liquor licences. However, this still leaves a great many community clubs and small businesses that have been hurt by Labor’s indiscriminate liquor licensing fee hike.

The fee reductions in this proposal will apply to full and restricted club licences (other than those with gaming machines), BYO permits, vigneron, restaurants/cafes and holders of renewable limited licences.

The benefits to the approximately 11,000 clubs and small business holding the following types of licences and permits are:

Licence type	Labor’s renewal fee	Coalition’s renewal fee
BYO Permit	\$405.80	\$200
Full club licence *	\$812.70	\$400
Restricted club licence	\$405.80	\$200
Vigneron’s licence	\$405.80	\$200
Restaurant and café licence	\$405.80	\$200
Limited licences	\$405.80	\$200

Labor’s liquor licensing system offers further anomalies, including its failure to distinguish between the types of activities that occur on licensed premises which may affect the risk of anti-social behaviour. Further anomalies in the operation of liquor licensing regarding general and on-premises licences will be resolved in consultation with the industry to ensure that Victoria will have a genuinely risk-based liquor licensing system.

LIVE MUSIC VENUES

A Liberal Nationals Coalition Government will:

- **Amend the objects of liquor licensing legislation to reflect that live music is an important part of the hospitality industry and the wider community.**
- **Ensure that blanket high-risk conditions do not apply to licensed venues featuring live music but that venues are assessed on their circumstances.**
- **Establish a permanent live music industry roundtable that will bring together liquor licensing, Victoria Police, music industry representatives, live music venues and Government to ensure that significant liquor licensing issues involving live music can be discussed quickly and effectively.**

The Liberal Nationals Coalition believes that a healthy live music scene will directly inhibit the alcohol-related violence Victoria has seen growing over the last decade.

Live music is an important part of the social and cultural fabric of our state. Many of our greatest musical talents have honed their craft in the pubs and bars and lounges of Victoria. The existence of a number of different live music venues is critical to nurturing young musical talent. Live music also provides an important economic benefit for Victoria with many people employed directly or indirectly in the industry.

Labor's decisions on liquor licensing have meant that iconic live music venues have been forced to close, while other venues have been forced either to cancel gigs or hire extra security, passing on the costs to the music lovers.

In January this year the iconic Tote Hotel in Collingwood closed its doors, with owner Bruce Milne stating "I can't afford to keep fighting Liquor Licensing... I can't afford the new 'high risk' fees they have imposed".

Labor's botched "one size fits all" laws mean that anomalies abound. One venue in outer suburban Melbourne featuring a Sunday afternoon jazz band (led by a 90 year old) was told it must hire eight security staff in order for the band to be permitted to play. A Greek restaurant in Chapel St, Prahran was required to have security staff before its bouzouki player could serenade diners.

Labor's system isn't protecting the public, but it almost killed off live music in this state.

In response to the public backlash against the effect of its policies, the Labor Government has made noises about changing its arrangements, but has not introduced one piece of legislation to Parliament to do so.

A Liberal Nationals Coalition Government is committed to reforming liquor licensing laws and policies to ensure the continuing viability of this state's live music industry.

To that end, we will amend the objects of liquor licensing legislation to recognise the role of live music in licensed venues as part of the hospitality and entertainment industry. This statutory recognition will assist regulators to consider the role of live music in their exercise of administrative authority.

The Liberal Nationals Coalition will also ensure that venues hosting live music will have licence conditions appropriate to the risk posed by the activity.

Labor's "one size fits all" approach has led to inappropriate conditions being imposed on low risk activities. We will require that live music licence conditions be determined according to all relevant risk factors to ensure that community safety and amenity is safeguarded without unnecessarily limiting opportunities for live music.

Unlike Labor's politically expedient consultation, we will establish a permanent Live Music Industry Roundtable involving liquor licensing, Victoria Police, music industry representatives, live music venues and government to ensure that significant liquor licensing issues involving live music can be discussed quickly and effectively.

VIGNERONS

A Liberal Nationals Coalition Government will:

- **Reduce by around 50 per cent the annual liquor licensing renewal fee for vignerons' licences.**
- **In consultation with industry, develop and introduce a new category of vignerons' and beer producers' licence that covers other activities undertaken by vignerons and beer producers in the normal course of their business.**

Victoria's approximately 800 vignerons are a vital part of our cultural, culinary, tourism and hospitality sectors. However, many vignerons are very small, with 50 per cent of winemakers producing less than 1500 cases a year.

These small businesses are not responsible for the levels of alcohol-fuelled violence that has plagued Victoria under Labor. Yet these winemakers have seen their liquor licence fees more than double over the past two years.

In addition, many vignerons find that neither a vigneron's licence nor a renewable limited licence properly reflect the usual activities of winemakers. For example, winemakers may sell to the public at a cellar door, sell to local restaurants as wholesalers and sell to the public at farmers' markets. Currently, not all of these activities will be covered by the one licence meaning that these small businesses face the need for multiple licences, charging multiple fees and encountering significant red tape.

Labor's changes to wineries licences only benefit those who sell through farmers' markets and the like. There is no licence in place that properly reflects the modern business practice of winemakers, particularly small scale operations.

As an initial measure to ease the pressure on this sector, a Liberal Nationals Coalition Government will slash the renewal fees for vignerons' licences and renewable limited licences by more than 50 per cent.

We will also work with the industry to develop a new category of vignerons' licence that will cover a variety of activities undertaken by vignerons and brewers in the ordinary course of their business. This will reduce the levels of red tape and licensing fees faced by smaller winemakers and brewers, encouraging them to grow and develop their sector which will benefit all Victorians.

TOTAL COSTINGS:

Recurrent Funding

Policy	2010/11	2011/12	2012/13	2013/14	2014/15	Total
Cut in liquor licensing fees for small businesses	\$2.3m	\$2.5m	\$2.7m	\$2.9m	\$3.1m	\$13.5m
Total	\$2.3m	\$2.5m	\$2.7m	\$2.9m	\$3.1m	\$13.5m