

Drink-drive limit threat to the pub and bar industry

Suzanne Davies, director of Clifton Davies Consultancy Limited, comments on the possible repercussions on business if the drink-drive limit is reduced in England and Wales in the same way as it has already been in Scotland

Leading Scottish licensing lawyer Jack Cummins was quoted on this page recently talking about the lowering of the legal alcohol limit in Scotland with effect from 5 December last year. He described the reduction from 80mg to 50mg in every 100ml of blood as giving rise to claims that it would cause more damage to the on-trade than the smoking ban.

The limit in Northern Ireland is thought likely to be similarly reduced. However, it may be that a degree of complacency exists in the rest of the UK following a recent ministerial comment that the government has no plans to alter the drink-drive limit in England and Wales because it would have no impact on “high risk offenders”. However, speaking for Fire and Rescue Authorities in England, the Local Government Association (LGA) has claimed that dropping it to the same level as has been imposed in Scotland would result in up to 170 lives being saved each year by significantly reducing the number of road traffic accidents.

The RAC supports the LGA. It has conducted research which it claims shows that fewer than one in four motorists in England and Wales believe the current English and Welsh drink-drive limit should be left at its current level. The LGA estimates that lowering the limit would save almost £300m annually by reducing the number of call-outs to accidents and the associated public sector costs of police, ambulances and hospital admissions.

In a press release, the LGA maintained that

on average, it takes a person an hour to clear between 15mg and 18mg of alcohol per 100ml of blood. Although there can be significant variations, a lower 50mg limit would mean an average man can drink just under a pint of beer or a large glass of wine and woman half a pint of beer or a small glass of wine. They add that the only way for drivers to stay safe is not to drink at all.

So what could be the effect of a lower limit on pubs and bars in England and Wales? One only has to look north of the border to find a possible answer to that question.

According to a recent survey of 400 Scottish licensees by the Scottish Licensed Trade Association (SLTA) 64% of outlets showed a decline in like-for-like sales of up to 10% in the first quarter of 2015, versus the same period last year. Of those, 29% said sales were down by more than 10%, with some reporting a drop of more than 30%, in midweek trade. Alcohol sales have been hardest hit, with 72% reporting

a downturn of 10% or more, and some outlets reported food revenues were down by more than a third. A total of 52% said they expect to see the decline continue throughout 2015 and only 13% expected to see any growth.

It is not surprising then that SLTA chief executive Paul Waterson has been quoted as saying that the findings of the survey are “very worrying” and that “the fight is on to save our trade”. This could yet become the shape of things to come in England and Wales. You have been warned!



Questions & Answers



Q: What is the government's review of business rates in England all about and why is it relevant to pubs and bars?

A: You are talking about HM Treasury's current Business Rates Review. At the moment business rates are calculated according to a property's rateable value. However, many consider the system unfit for purpose, the ALMR describing it as having “gone from being a tax on business to a tax on property occupation and it therefore places disproportionate burdens on high street casual dining, pubs and small businesses in particular”, citing pubs and bars paying 15p per pint in rates compared to about 1p per pint in supermarkets. The review invites suggestions of alternative ways of raising local business taxes, so have your say by responding by the 12 June deadline.

Q: When will the statutory pubco code come into effect?

A: Amendments made by the House of Lords to the Small Business, Enterprise and Employment Bill were agreed by the House of Commons with the consequence that the Bill has now received Royal Assent. Secondary legislation is anticipated in the autumn to enable tenants and pubcos to agree a waiver to the market rent only option for pubcos that are willing to make “significant investments”. A similar exemption will apply to “genuine franchise agreements”.

Q&A correction

In the Legal Questions & Answers section of the 16 March issue of Pub & Bar, it was reported that the Court of Appeal has recently given leave to appeal to a licensee from Swansea who was found to have breached copyright last year. The question referred to Sky football broadcasts in this case, when in fact this is a Premier League case. This is an important distinction to make, and, for clarity, we would like to reiterate that live Premier League football can only be shown legally in pubs via a commercial agreement directly from Sky or BT.

Clifton Davies Consultancy Ltd



Clifton Davies Consultancy Limited is a consultancy business (not a law firm) which specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. David Clifton and Suzanne Davies are also consultants to Joelson Wilson LLP. The views expressed are given without any assumption of responsibility on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.

E-mail: dc@cliftondavies.com sd@cliftondavies.com Web: cliftondavies.com