



# Violent Crime Reduction Act 2006

## 2006 CHAPTER 38

### PART 1

#### ALCOHOL-RELATED VIOLENCE AND DISORDER

### CHAPTER 3

#### OTHER PROVISIONS

##### *Persistently selling alcohol to children*

### 23 Offence of persistently selling alcohol to children

(1) After section 147 of the Licensing Act 2003 (c. 17) insert—

#### **“147A Persistently selling alcohol to children**

- (1) A person is guilty of an offence if—
- (a) on 3 or more different occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18;
  - (b) at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5; and
  - (c) that person was a responsible person in relation to the premises at each such time.
- (2) For the purposes of this section alcohol sold to an individual aged under 18 is unlawfully sold to him if—
- (a) the person making the sale believed the individual to be aged under 18; or

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- (b) that person did not have reasonable grounds for believing the individual to be aged 18 or over.
- (3) For the purposes of subsection (2) a person has reasonable grounds for believing an individual to be aged 18 or over only if—
  - (a) he asked the individual for evidence of his age and that individual produced evidence that would have convinced a reasonable person; or
  - (b) nobody could reasonably have suspected from the individual's appearance that he was aged under 18.
- (4) A person is, in relation to premises and a time, a responsible person for the purposes of subsection (1) if, at that time, he is—
  - (a) the person or one of the persons holding a premises licence in respect of the premises; or
  - (b) the person or one of the persons who is the premises user in respect of a temporary event notice by reference to which the premises are authorised to be used for a permitted temporary activity by virtue of Part 5.
- (5) The individual to whom the sales mentioned in subsection (1) are made may, but need not be, the same in each case.
- (6) The same sale may not be counted in respect of different offences for the purpose—
  - (a) of enabling the same person to be convicted of more than one offence under this section; or
  - (b) of enabling the same person to be convicted of both an offence under this section and an offence under section 146 or 147.
- (7) In determining whether an offence under this section has been committed, the following shall be admissible as evidence that there has been an unlawful sale of alcohol to an individual aged under 18 on any premises on any occasion—
  - (a) the conviction of a person for an offence under section 146 in respect of a sale to that individual on those premises on that occasion;
  - (b) the giving to a person of a caution (within the meaning of Part 5 of the Police Act 1997) in respect of such an offence; or
  - (c) the payment by a person of a fixed penalty under Part 1 of the Criminal Justice and Police Act 2001 in respect of such a sale.
- (8) A person guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding £10,000.
- (9) The Secretary of State may by order amend subsection (8) to increase the maximum fine for the time being specified in that subsection.

#### **147B Order suspending a licence in respect of offence under section 147A**

- (1) Where the holder of a premises licence is convicted of an offence under section 147A in respect of sales on the premises to which the licence relates, the court may order that so much of the licence as authorises the sale by retail of alcohol on those premises is suspended for a period not exceeding three months.

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- (2) Where more than one person is liable for an offence under section 147A relating to the same sales, no more than one order under subsection (1) may be made in relation to the premises in question in respect of convictions by reference to those sales.
  - (3) Subject to subsections (4) and (5), an order under subsection (1) comes into force at the time specified by the court that makes it.
  - (4) Where a magistrates' court makes an order under subsection (1), it may suspend its coming into force pending an appeal.
  - (5) Section 130 (powers of appellate court to suspend section 129 order) applies (with the omission of subsection (9)) where an order under subsection (1) is made on conviction of an offence under section 147A as it applies where an order under section 129 is made on conviction of a relevant offence in Part 6.”
- (2) In section 186(2) of that Act (persons who may institute prosecutions under that Act)
- (a) in paragraph (a) (licensing authority), at the beginning insert “except in the case of an offence under section 147A,”; and
  - (b) in paragraph (c) (local weights and measures authority), for “or 147” substitute “, 147 or 147A”.
- (3) In section 197 of that Act (regulations and orders)—
- (a) in subsection (3), after paragraph (c) insert—
    - “(ca) an order under section 147A(9) (increase of maximum fine for offence of persistently selling alcohol to children) to which subsection (4A) applies;”;
  - (b) in subsection (4), after “(c),” insert “(ca),”;
  - (c) after subsection (4) insert—

“(4A) This subsection applies to an order under section 147A(9) if it appears to the Secretary of State that the power to make the order is being exercised for purposes that are not confined to the increase of the maximum fine to take account of changes in the value of money.”
- (4) A sale of alcohol is not to count for the purposes of the offence under section 147A of the Licensing Act 2003 (c. 17) if it took place before the commencement of this section.

## **24 Closure notices for persistently selling alcohol to children**

- (1) After section 169 of the Licensing Act 2003 insert—

*“Closure notices*

### **169A Closure notices for persistently selling alcohol to children**

- (1) A relevant officer may give a notice under this section (a ‘closure notice’) applying to any premises if—
- (a) there is evidence that a person (‘the offender’) has committed an offence under section 147A in relation to those premises;

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- (b) the relevant officer considers that the evidence is such that, if the offender were prosecuted for the offence, there would be a realistic prospect of his being convicted; and
  - (c) the offender is still, at the time when the notice is given, the holder of a premises licence in respect of those premises, or one of the holders of such a licence.
- (2) A closure notice is a notice which—
  - (a) proposes a prohibition for a period not exceeding 48 hours on sales of alcohol on the premises in question; and
  - (b) offers the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed by the notice.
- (3) A closure notice must—
  - (a) be in the form prescribed by regulations made by the Secretary of State;
  - (b) specify the premises to which it applies;
  - (c) give such particulars of the circumstances believed to constitute the alleged offence (including the sales to which it relates) as are necessary to provide reasonable information about it;
  - (d) specify the length of the period during which it is proposed that sales of alcohol should be prohibited on those premises;
  - (e) specify when that period would begin if the prohibition is accepted;
  - (f) explain what would be the effect of the proposed prohibition and the consequences under this Act (including the maximum penalties) of a sale of alcohol on the premises during the period for which it is in force;
  - (g) explain the right of every person who, at the time of the alleged offence, held or was one of the holders of a premises licence in respect of those premises to be tried for that offence; and
  - (h) explain how that right may be exercised and how (where it is not exercised) the proposed prohibition may be accepted.
- (4) The period specified for the purposes of subsection (3)(d) must be not more than 48 hours; and the time specified as the time from which that period would begin must be not less than 14 days after the date of the service of the closure notice in accordance with subsection (6).
- (5) The provision included in the notice by virtue of subsection (3)(h) must—
  - (a) provide a means of identifying a police officer or trading standards officer to whom notice exercising the option to accept the prohibition may be given;
  - (b) set out particulars of where and how that notice may be given to that police officer or trading standards officer;
  - (c) require that notice to be given within 14 days after the date of the service of the closure notice; and
  - (d) explain that the right to be tried for the alleged offence will be taken to have been exercised unless every person who, at the time of the notice, holds or is one of the holders of the premises licence for the premises in question accepts the proposed prohibition.

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- (6) Section 184 (giving of notices) does not apply to a closure notice; but such a notice must be served on the premises to which it applies.
- (7) A closure notice may be served on the premises to which it applies—
  - (a) only by being handed by a constable or trading standards officer to a person on the premises who appears to the constable or trading standards officer to have control of or responsibility for the premises (whether on his own or with others); and
  - (b) only at a time when it appears to that constable or trading standards officer that licensable activities are being carried on there.
- (8) A copy of every closure notice given under this section must be sent to the holder of the premises licence for the premises to which it applies at whatever address for that person is for the time being set out in the licence.
- (9) A closure notice must not be given more than 3 months after the time of the last of the sales to which the alleged offence relates.
- (10) No more than one closure notice may be given in respect of offences relating to the same sales; nor may such a notice be given in respect of an offence in respect of which a prosecution has already been brought.
- (11) In this section ‘relevant officer’ means—
  - (a) a police officer of the rank of superintendent or above; or
  - (b) an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.

#### **169B Effect of closure notices**

- (1) This section applies where a closure notice is given under section 169A in respect of an alleged offence under section 147A.
- (2) No proceedings may be brought for the alleged offence or any related offence at any time before the time when the prohibition proposed by the notice would take effect.
- (3) If before that time every person who, at the time of the notice, holds or is one of the holders of the premises licence for the premises in question accepts the proposed prohibition in the manner specified in the notice—
  - (a) that prohibition takes effect at the time so specified in relation to the premises in question; and
  - (b) no proceedings may subsequently be brought against any such person for the alleged offence or any related offence.
- (4) If the prohibition contained in a closure notice takes effect in accordance with subsection (3)(a) in relation to any premises, so much of the premises licence for those premises as authorises the sale by retail of alcohol on those premises is suspended for the period specified in the closure notice.
- (5) In this section ‘related offence’, in relation to the alleged offence, means an offence under section 146 or 147 in respect of any of the sales to which the alleged offence relates.

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- (6) The operation of this section is not affected by any contravention of section 169A(8).”
- (2) In subsection (1) of section 170 of that Act (exemptions from liability)—
- (a) for “A constable is not” substitute “Neither a constable nor a trading standards officer is”; and
  - (b) at the end insert “or of his functions in relation to a closure notice”.
- (3) For subsection (2) of that section substitute—
- “(2) Neither a chief officer of police nor a local weights and measures authority is liable for relevant damages in respect of any act or omission of a person in the performance or purported performance, while under the direction or control of such a chief officer or local weights and measures authority—
- (a) of a function of that person in relation to a closure order, or any extension of it; or
  - (b) of a function in relation to a closure notice.”
- (4) After subsection (4) of that section insert—
- “(4A) In this section references to a constable include references to a person exercising the powers of a constable by virtue of a designation under section 38 of the Police Reform Act 2002 (community support officers etc.); and, in relation to such a person, the first reference in subsection (2) to a chief officer of police has effect as a reference to a police authority.”
- (5) In section 171(5) of that Act (expressions defined for the purposes of Part 8),
- (a) after the definition of “appropriate person” insert—
 

“‘closure notice’ has the meaning given in section 169A;”
  - (b) after the definition of “extension” insert—
 

“‘local weights and measures authority’ has the meaning given by section 69 of the Weights and Measures Act 1985;”
  - (c) after the definition of “senior police officer” insert—
 

“‘trading standards officer’, in relation to any premises to which a premises licence relates, means a person authorised by a local weights and measures authority to act in the area where those premises are situated in relation to proposed prohibitions contained in closure notices;”.
- (6) In Part 1 of Schedule 4 to the Police Reform Act 2002 (c. 30) (powers of community support officers), after paragraph 5 insert—

*“Power to serve closure notice for licensed premises persistently selling to children*

- 5A Where a designation applies this paragraph to any person, that person shall have—
- (a) within the relevant police area, and
  - (b) if it appears to him as mentioned in subsection (7) of section 169A of the Licensing Act 2003 (closure notices served on licensed premises persistently serving children),

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the capacity of a constable under that subsection to be the person by whose delivery of a closure notice that notice is served.”