

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

LIQUOR AMENDMENT BILL 2001

EXPLANATORY MEMORANDUM

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Explanatory Memorandum

OUTLINE

This is a Bill to amend the *Liquor Act 1975*.

Section 159 of the *Liquor Act 1975* is a provision which creates a rebuttable presumption that the contents of a container which purports to contain liquor is liquor. The presumption stands unless the defendant establishes the contrary, on the balance of probabilities. This means that the defendant bears both the evidentiary and probative burden of proof.

The provisions of Section 159 have been interpreted to mean that at least a sample of the relevant substance must have been taken. This was deemed necessary to enable a defendant to be provided with a sample that he or she could have analysed to rebut the prosecution evidence.

The Victorian *Liquor Control Act 1987* provides that where an informant avers that any liquid is liquor, the averment is evidence that the liquid is liquor. The aim of this Bill is to adopt this type of provision to relieve police of the need to have liquid thought to be liquor analysed to ascertain whether it is liquor.

FORMAL CLAUSES

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, commencement and the Act being amended.

SUBSTITUTION

Clause 4 substitutes a revised provision for evidence that liquids are liquor. The section provides that a statement confirming that the substance is liquor does not require a sample to be taken and analysed.