



Review of the *Liquor Control Act 1988*

Submission by the McCusker Centre for Action on Alcohol and Youth

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Executive Summary

We believe that the prime and clear focus of the *Liquor Control Act 1988* (the Act) should be on preventing harms caused by alcohol and minimising the impact of alcohol problems in our community. Alcohol is a major cause of myriad health and social problems, crime, violence, road crashes, and other direct and indirect forms of social disruption. Alcohol is the cause of both short- and long-term problems; its consequences are felt by users and many others in the community. The costs of alcohol to the community, from healthcare to law enforcement to a range of intangible costs are also substantial. Independent market research shows that 94% of West Australian adults are concerned about alcohol use among young people and 98% are concerned about alcohol-related violence in WA.

The key themes within our submission include:

- Preventing and minimising harm and ill-health due to the use of liquor should be the highest priority of the Act.
- Alcohol is a commodity with great potential to cause harm.
- The ability to sell alcohol is a privilege, not a right.
- Alcohol-related harm is entirely preventable.
- There is significant concern about alcohol and young people among the Western Australian community and strong support for action in key policy areas.
- The protection of young people and vulnerable groups should be a priority of the Act.
- Limiting and ensuring appropriate availability of alcohol should be a prime focus for the review.
- Involvement in the processes of the Act should be made much easier for individuals and organisations in the community.

Our vision for the Liquor Control Act is an Act that:

- holds preventing alcohol-related harm in the WA community as its highest priority;
- is based on the principle that alcohol is a commodity with great potential to cause harm; and
- is evidence-based and pro-active in preventing alcohol-related harm.

We have set out recommendations which we believe reflect the evidence and the best interests of the community, and will particularly benefit young people. Recommendations include:

1. Preventing and minimising harm and ill-health due to the use of liquor to be the highest priority.
2. The Act adopt a pro-active, evidence-based approach to preventing harm from alcohol by focusing amendments to the Act on reducing, not increasing, the availability of alcohol.
3. Amend the Act to empower liquor licensing decision makers to consider outlet density, the cumulative impact of licensed premises and the clustering of premises.
4. Amend the Act to prohibit the supply of alcohol to minors without the permission of parents or guardians in all settings (secondary supply – 88% support from WA adults, 5% oppose).
5. Ensure community interests are appropriately represented in liquor licensing processes by comprehensively addressing the factors preventing community access and participation.
6. Ensure the WA Police and DRGL are adequately resourced and have appropriate powers to effectively monitor and enforce the Act (including controlled purchase operations – 76% support from WA adults, 9% oppose).
7. Introduce measures to prevent young people's exposure to all forms of alcohol promotion.
8. Continue and improve the collection of alcohol sales data in WA.

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PART ONE: BACKGROUND

Introduction

The McCusker Centre for Action on Alcohol and Youth is pleased to have the opportunity to provide a submission to the review of the *Liquor Control Act 1988* (the Act). We welcome this Review which we believe can make an important contribution to reducing and minimising alcohol problems in Western Australia and moving the State from a culture where inappropriate alcohol use and drinking to get drunk are the cause for so much concern.

We believe that the prime and clear focus of the Act should be on preventing harms caused by alcohol and minimising the impact of alcohol problems in our community. Alcohol is a major cause of myriad health and social problems, crime, violence, road crashes, and other direct and indirect forms of social disruption. Alcohol is the cause of both short-and long term problems; its consequences are felt by users and many others in the community. The costs of alcohol to the community, from healthcare to law enforcement to a range of intangible costs are also substantial.

Health and law enforcement authorities have recommended comprehensive approaches to addressing alcohol problems. It is, indeed, important that measures such as the Act are seen in the context of the need for broad comprehensive approaches at national, state and local levels. The Act cannot of itself be expected to solve all alcohol problems, but strong, well enforced legislation is vital to preventing and minimising the harms caused by alcohol problems.

As noted in this submission, there is overwhelming evidence that problems caused by alcohol are not limited to a very small number of “problem drinkers”, but are a matter for the entire community and require population approaches. Similarly, it is clear that while discussions about more relaxed drinking cultures may have some immediate apparent appeal, they do nothing to address alcohol problems, may make them worse, and should only be considered on the basis of the best available evidence and in the context of a comprehensive program designed to reduce alcohol problems.

The evidence both internationally and from within Australia is very clear that increased access leads to increased problems in areas ranging from crime and violence to mental health. As Professor Steve Allsop, Director of the National Drug Research Institute, noted, “We need to discuss the availability and promotion of alcohol in our community in the context of it being a drug with potential for harm”.¹

We believe that the Act as currently constructed is inimical to the interests of those concerned to reduce alcohol problems whether in adults or young people. It is critical that preventing and minimising harm and ill-health due to the use of liquor is the prime object of the Act. In the absence of such a recommendation and change to the Act, we believe that the impact of the legislation will be significantly reduced, and that it will be very difficult to achieve worthwhile outcomes.

We recognise that a range of exceptionally powerful commercial interests will seek to place the interests of the alcohol industry as either ahead of or equal to those of the health, wellbeing and safety of the

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community. We would urge the Review to make it clear that the health, safety and wellbeing of the community must take first priority.

We have set out a range of priorities, principles and recommendations which we believe reflect the evidence, recommendations from health and the law enforcement authorities, and the best interests of the community. These will particularly benefit young people, and we have made specific recommendations in this area.

We have not in this submission discussed the possibility of raising the age for purchase or use of alcohol. There is a strong school of thought that supports such an approach. If the review committee feels that this is appropriate for current consideration, we would be happy to provide further commentary.

A well recognised and authoritative international text on alcohol is entitled “Alcohol: No ordinary commodity”.² Our aim is not to prevent the sensible use or enjoyment of alcohol. We do, however, believe that this Review has the opportunity to recommend changes to the Act that will lead Western Australia to a more appropriate drinking culture, where it is no longer acceptable for young people to drink to get drunk, and where legislation is informed by evidence-based approaches and the best advice of health and law enforcement authorities, not the interests of the alcohol industry.

The McCusker Centre for Action on Alcohol and Youth

The McCusker Centre is an independent organisation committed to reducing harms from alcohol among young people. The work of the McCusker Centre is directed towards raising awareness of the magnitude of alcohol-related harms among young people, the approaches we know can work, other options and the need to act without delay.

The McCusker Centre supports a comprehensive approach to the prevention of harm from alcohol, including regulation of alcohol advertising and promotion, controls on the availability of and access to alcohol and alcohol pricing and taxation strategies.

The McCusker Centre is the Secretariat for the WA Alcohol and Youth Action Coalition, supported by 83 member organisations. The recommendations outlined in our submission are consistent with the position statements of the WA Alcohol and Youth Action Coalition.

Key themes

The key themes within our submission include:

- Preventing and minimising harm and ill-health due to the use of liquor should be the highest priority of the Liquor Control Act.
- Alcohol is a commodity with great potential to cause harm.
- The ability to sell alcohol is a privilege, not a right.
- Alcohol-related harm is entirely preventable.
- There is significant concern about alcohol and young people among the Western Australian community and strong support for action in key policy areas.
- The protection of young people and vulnerable groups should be a priority of the Act.

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- Limiting and ensuring appropriate availability of alcohol should be a prime focus for the review of the Act.
- Involvement in the processes of the Act should be made much easier for individuals and organisations in the community.

Our vision for the Liquor Control Act

A Liquor Control Act that

- holds preventing alcohol-related harm in the WA community as its highest priority;
- is based on the principle that alcohol is a commodity with great potential to cause harm; and
- is evidence-based and pro-active in preventing alcohol-related harm.

We accept that many licensees and groups in related industries conduct their business in a responsible manner, nonetheless this is not universal and the ability to sell alcohol is a privilege, not a right.

Levels of alcohol use in WA and Australia are cause for concern

Per capita consumption (PCC) of alcohol in Australia in 2008-09 was at one of its highest points since 1991-92, largely due to the increase in the alcohol content and market share of wine.³ As previous analyses of PCC of alcohol had not accounted for these factors, official totals underestimated consumption and led to the mistaken impression that alcohol consumption had been stable over the past 20 years.³ In the recent years of financial pressures, there has been a slight decline in PCC of alcohol, while changing patterns of alcohol use are a major cause for concern.⁴ Data over longer periods are required to identify significant trends.

The PCC of alcohol in WA is higher than the national average. In 2008-09, PCC (aged 15 years and older) of alcohol in WA was 11.21 litres, compared to 10.08 litres for Australia.⁵ Some regions within WA have extremely high levels of alcohol use, for example, the Statistical Divisions of Kalgoorlie/Boulder City Part A (18.64 litres), Carnegie (18.16 litres), Gascoyne (26.25 litres) and Fortescue, which incorporates the West Pilbara (25.73 litres).⁵ There are strong relationships between PCC of alcohol and a broad range of alcohol-related harms.^{5,6}

The 2010 National Drug Strategy Household Survey identified that more than one in five West Australian drinkers (22.7%) aged 14 years or older consumed alcohol at a level that put them at risk of harm from alcohol-related disease or injury over their lifetime.⁷ The rate for WA was higher than the Australian average (20.1%). Further, 43.3% of West Australian drinkers aged 14 years or older drank, at least once in the last 12 months, in a pattern that placed them at risk of an alcohol-related injury from a single drinking occasion. Again, the rate for WA was higher than the Australian average (39.7%).⁷

Young people

There is significant concern among the Australian community about drinking patterns among young people and the resulting harms. Australian children and young people are drinking at earlier ages, with many drinking to get drunk. Eighty percent of the alcohol consumed by young people aged 14-24 years is consumed at levels that put them or others at immediate risk, for example, from falls, assault injuries, road crashes and burns.⁸

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The drinking patterns of young people in WA are the cause for especial concern. While fewer WA young people are using alcohol, those who do drink are drinking more.⁹ According to the 2011 Australian School Student Alcohol and Drug Survey, of those WA students aged 12-17 years who drank in the last week, more than one-third (36.2%) drank at risky levels for single occasion alcohol-related harm. Many of these young people also report concerning attitudes towards alcohol; 39.3% of WA 12-17yr old students report that "One of the main reasons I drink is to get drunk".⁹

The 2010 National Drug Strategy Household Survey identified that 58.1% of Australians aged 18-19 years and 46.2% of Australians aged 20-29 years place themselves at risk of an alcohol-related injury at least once a month.⁷ Further, 31.7% of Australians aged 18-19 years and 26.9% of Australians aged 20-29 years drink at levels that put them at risk of harm from alcohol-related disease or injury over their lifetime.⁷

Alcohol causes high levels of short and long term harms in the WA community

Alcohol is a major cause of myriad health and social problems, crime, violence, road crashes, and other direct and indirect forms of social disruption. The short- and long-term health impacts of alcohol are responsible for substantial morbidity and mortality in Australia. Alcohol was responsible for 2.85% of the total attributable burden of disease and injury in WA in 2006.¹⁰

Drinkers experience a range of harms as a result of their drinking, including problems with finances and relationships, as well as physical, emotional and legal problems such as violence and drink driving.¹¹

Harmful alcohol use is associated with a range of chronic diseases including cardiovascular disease, some cancers, liver diseases and cognitive impairment.¹²⁻¹⁴ In WA, the age-standardised rate of alcohol-related deaths for chronic conditions increased significantly over the period 1997-2005.¹⁵ In that period, five conditions (suicide, alcoholic liver cirrhosis, stroke, road crash injuries and oesophageal cancer) were responsible for 59% of all alcohol-related deaths in WA.¹⁵

Alcohol affects people other than the drinker; 28.5% of Australians aged 14 years or older report being either verbally or physically abused or put in fear in the previous year by someone under the influence of alcohol.⁷ In 2008, over 70% of Australian adults reported being affected by others' drinking and almost half reported severe harm such as property damage, physical or sexual abuse.¹⁶

Young people

Young drinkers experience a range of short terms harms resulting from their alcohol use. Younger, risky drinkers are most likely to report a loss of memory, with over a third (37.7%) of those aged 12 to 17 years reporting memory loss as a result of alcohol consumption at least once a month.⁷ Almost half of all WA school students aged 16 to 17 who report drinking in the previous week also report being sick or vomiting after drinking.⁹

Between 2007 and 2011, 2,484 WA 12 to 17 year olds were admitted to hospital for alcohol-related reasons, representing 6,485 bed days. For the same period there were 25 alcohol related deaths.⁹

Young people are over-represented in road safety statistics. Around 60% of those caught by WA Police exceeding the BAC limit are under the age of 30.¹⁷ In 2010, 426 WA drivers aged 17-25 who crashed had a BAC of or greater than 0.05; this is almost as many as the number (467) of drivers aged over 25 years.¹⁸

In addition to the concerning range of short term risks associated with excessive alcohol consumption, there is growing evidence that alcohol is implicated in a range of longer term consequences including harm to brain development. The brain continues to develop into the early 20s, and alcohol can irreparably damage young brains leading to problems with memory, planning and organisation, impulse control and mood regulation.¹⁹

The potential for harm extends beyond the drinker. Young people are impacted by others' harmful alcohol use in a number of significant ways. Alcohol use during pregnancy is a leading cause of preventable birth defects.²⁰ Reducing alcohol use during pregnancy will reduce the prevalence and severity of Foetal Alcohol Spectrum Disorders (FASD). Preventing FASD will require a comprehensive approach, including both population-wide and targeted strategies to reduce alcohol use during pregnancy.

Recent research with Australian parents and carers showed that many young people (around 22%) had been affected because of another's drinking in the past year, with 3% reporting substantial harm.²¹ Children were commonly exposed to heavy drinking by parents and others at social occasions, and this research suggests that the drinking of parents and other adults involved with children have consequences for children. It was most commonly reported that children were verbally abused because of others' drinking, and the problem extended across the social spectrum.

Young people are more likely to report being verbally abused, physically abused or put in fear by someone under the influence of alcohol than any other age group.⁷ One in five Australians aged 18-19 years old have been a victim of physical abuse by someone under the influence of alcohol; for 20-29 year olds, more than one in seven have been a victim.⁷

A survey of 7200 undergraduate Australian university students identified that almost half (48 %) of university students drink at harmful levels and that many students were affected by other students' drinking.²² Students reported that as a result of others' drinking in the previous month, 13% had been insulted or humiliated, nearly 9% of male students reported being pushed, hit or otherwise assaulted by others who had been drinking, 14% of female students had experienced an unwanted sexual advance, and 1% of students had been sexually assaulted.

Alcohol-related harms are a burden on health and law enforcement resources

Alcohol-related harms place a major burden on policing and health resources in WA. Reducing alcohol related harms would go a long way toward easing the pressure on health and law enforcement services in WA.

There are a broad range of indicators of the burden of alcohol on police resources:

- Alcohol is involved in 75% of all police responses in WA, and a similar proportion of the WA Police discretionary operational budget is directed toward addressing alcohol-related issues.²³
- Alcohol intoxication is a factor in almost 90% of all calls for police intervention between the hours of 10pm and 2am.^{24, 25}
- Alcohol was involved in almost 20,000 assaults recorded by WA Police between 2009 and 2011, which represented 44.1% of all assaults during that period.²⁶
- Drink-driving contributes to over 30% of deaths on WA roads each year.²⁷

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- In 2010, there were almost 3 000 alcohol related incidents requiring police attention in and around licensed premises in Western Australia. However as many incidents are unreported, the overall number of alcohol-related incidents and the impact on the community is far higher.²⁴
- 66.9% of victims of physical assault in WA in 2011-12 believed alcohol or another substance contributed to their assault.²⁸

The expected cost per incident for assault, sexual offence, property damage and disorderly conduct has been estimated (in 2006 dollar values) at \$3982, \$5976, \$1166 and \$501 respectively.²⁹

With many people drinking at levels that put their health at both immediate and long-term risk, alcohol places additional burdens on our already stretched health system. Indicators of the burden of alcohol-related harm on health services include:

- Alcohol is involved in 45% of hospitalisations and deaths caused by violence injuries, nearly one in five injury deaths, and one in eight injury hospitalisations.³⁰
- Alcohol use is second only to tobacco as the leading preventable cause of health and hospitalisation in Australia.³¹
- There were 66,817 hospitalisations in WA for alcohol-related conditions between 2005 and 2009, representing 349,703 beddays at a cost of over \$379.5 million. The most common alcohol-related conditions were alcoholism, other alcohol-related diseases, falls and assaults.³²
- Between 2007 and 2011, 2,484 WA 12 to 17 year olds were admitted to hospital for alcohol-related reasons, representing 6,485 bed days.⁹
- It is estimated that 5070 (or 5% of all cancers) are attributable to long-term chronic use of alcohol each year in Australia.¹³

In the 2012 calendar year, St John Ambulance WA made 384 ambulance call-outs for the reason of alcohol intoxication for young people aged 18 years or younger; that is more than one each day (76% were taken to hospital).³³ Of these, seven ambulances were called to treat children under 12 years of age. In total for 2012, 3903 ambulances were called in WA to treat people who had drunk so much they required medical intervention (Bertoldo D, St John Ambulance WA, personal communication, 18 January 2013). These statistics are likely to significantly underestimate the number of ambulance call-outs for alcohol-related problems as they do not include ambulances called to treat road crashes, falls and other alcohol-related incidents.

The WA community is concerned about alcohol-related harm

There is considerable community concern about the impacts of alcohol on our community, and particularly about alcohol use by young people. An independent survey of 1,457 West Australian adults in November 2012, commissioned by the McCusker Centre, found that 98% are concerned about alcohol-related violence in WA (with only 1% not concerned) and 94% are concerned about alcohol use among young people in WA (with only 5% not concerned). Only 15% of WA adults think that governments are doing enough to prevent alcohol-related harm.³⁴

The community acceptability of alcohol-related harm appears to be a consideration in liquor licensing decisions in WA.³⁵ It is unclear on what grounds the community acceptability of harm has been determined to date. The overwhelming degree of concern among the WA community about alcohol issues reflects the extent to which the WA community does not accept the level of alcohol-related harm presently

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experienced in WA. We believe it is an appropriate time for liquor licensing decision makers to reassess their perception of the community acceptability of alcohol-related harm. Maintaining the status quo and accepting the inevitability of harms and costs from alcohol is not a sustainable or responsible approach.

Population-level prevention approaches are needed to address the whole-of-population issue of alcohol-related harm

Population level approaches to preventing harm from alcohol should be a focus of the review of the Act and the resulting recommendations.

There is a need for population level approaches to preventing harm from alcohol. A concerning proportion of the Australian population consume alcohol above the National Health and Medical Research Council guidelines to reduce health risks from drinking alcohol.^{7, 12} Drinking at risky levels is therefore clearly not a minority problem in WA; rather, it is a whole-of-population issue which requires a comprehensive suite of population level approaches to effectively prevent harm.

While the heaviest drinkers have a higher risk of a range of alcohol-related harms, this group is not responsible for the greater part of the burden of harms related to alcohol use.^{2, 36-38} Rather, the majority of the population – drinkers who occasionally drink heavily but whose overall volume of drinking is low or moderate – are responsible for the majority of harm, particularly harms related to intoxication, because there are so many more of them. This is commonly referred to as the ‘prevention paradox’. Reducing alcohol consumption (which would be expected to reduce alcohol-related harms) in the whole population would therefore have a much greater impact on the overall burden of alcohol-related harms than if only the heaviest drinkers reduced their alcohol consumption.

Certain groups espouse the benefits of ‘targeted’ approaches which do not impact the majority of drinkers who drink responsibly. Where ‘targeted’ approaches are advocated as an alternative to population-level approaches, they are often supported by those with vested interests in minimising regulation that would reduce alcohol sales and consumption.

Targeted approaches alone are insufficient to reduce or prevent the majority of alcohol-related harm. Targeted approaches may be appropriate in certain circumstances, for example, tailored interventions for high-risk communities, but these must be considered in the context of a much broader, comprehensive approach to preventing harm from alcohol.

Population approaches to preventing harm from alcohol, including through legislation, are cost-effective³⁹ and essential if WA is to prevent the burden of alcohol-related harms on the community, health services and law enforcement.

PART TWO: KEY PRINCIPLES

The Act should have the highest regard for preventing and minimising harm and ill-health

Objects of the Act

The objects of the Act are of the highest importance, as these set the framework for how the Act is implemented.

The prevention and minimisation of harm and ill-health should be the primary object of the Act.

There is a conflict between the current primary objects of the Act; minimizing harm or ill-health due to the use of liquor (primary object b) is inconsistent with the proper development of the liquor, tourism and other hospitality industries in the State (primary object c).

The conflict inherent in the primary objects presents difficulty for decision makers. Currently, the licensing authority must “weight and balance” the objects of the Act when making decisions, as all primary objects are of equal standing, despite their inherent conflict. The competing nature of the primary objects has been noted by the Director of Liquor Licensing in a number of decisions, for example, in regard to Dan Murphy’s Cannington⁴⁰:

“Pursuant to section 16 of the Act, each application must be considered on its merits. However, it is often the case when determining the merits of an application that tension may arise between advancing the objects of the Act, particularly the objects of minimizing alcohol-related harm and endeavouring to cater for the requirements of consumers for liquor and related services. When such circumstances arise, the licensing authority needs to weigh and balance those competing interests...”.

Alcohol is a product that causes substantial harm in the community, including among children and young people, and other at-risk groups. Preventing harm to the WA community should come before the interests of the liquor, hospitality and tourism industries. While the Act has the proper development of the liquor and related industries as one of its primary objectives, alongside minimising harm, the WA community cannot be confident that their health and well-being will not be compromised in preference for supporting business interests.

We urge the addition of ‘prevention’ to the primary object of the Act; “to prevent and minimize harm or ill-health caused to people, or any group of people, due to the use of liquor”. The term ‘minimise’ in regard to harm or ill-health suggests an acceptance of a level of alcohol-related harm, and does not recognise the role of legislation in preventing harm from alcohol. Highlighting the prevention of harm from alcohol within the primary objects of the Act sends out a signal that alcohol-related harm is preventable and preventing harm to the WA community from alcohol is of the highest importance.

Following substantial consultation with diverse interests, the WA Education and Health Standing Committee, in its report, *‘Alcohol: Reducing the Harm and Curbing the Culture of Excess’*, recommended ‘protecting and improving public health’ be the primary object of the Act. The Committee further recommended that Section 5(1)(c) be removed from the Act.

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Recommendation

Preventing and minimising harm and ill-health due to the use of liquor must be the highest priority of the Liquor Control Act. Primary object (c) should be removed or demoted to a secondary object.

The Act should have particular regard for Young People and other ‘at risk’ groups

The Public Interest Assessment Policy by the Director of Liquor Licensing identifies children and young people as an ‘at-risk’ group. There are many ways in which children and young people can be at risk of harm from alcohol, directly and indirectly. The potential for harm extends beyond the drinker and young people do not need to consume alcohol to be at risk of harm. Research with Australian parents and carers shows that many young people (around 22%) experience harm caused by others’ alcohol consumption.²¹

There is especial concern among health groups and the WA community about the drinking patterns of young people. Young people drink at younger ages, and those who do drink, are drinking more.

The rationale for delaying young people’s exposure to alcohol is strong: there is no ‘safe’ or ‘no-risk’ drinking level for children and young people¹²; there is growing evidence that alcohol impacts on the developing brain which is still maturing into the early to mid 20s¹⁹; and, the longer young people delay drinking, the less likely they are to develop problems with alcohol later on.¹²

Young people are exposed to the drinking culture of the broader population. How alcohol is made available and used influences young people’s attitudes toward alcohol and may encourage the view that alcohol is a normal, everyday product. With the increasing normalisation of alcohol, young people are encouraged to view alcohol as just another consumer product, not a product that can cause significant short and long term harms to the drinker and others when used inappropriately.

The potential impact on children and young people and other ‘at risk’ groups should be a central consideration in liquor licensing decision making. The Act could better support this priority by having the highest regard for preventing and minimising alcohol-related harm and ill-health in the community and introducing a range of other evidence-based amendments to prevent harm from alcohol among young people.

Recommendation

Ensure the potential impact on children and young people and other ‘at risk’ groups is a central consideration in liquor licensing decision making.

Changes to the Act should reduce the economic and physical availability of alcohol

The availability of alcohol refers to “the ease or convenience of obtaining alcohol”.² Research has demonstrated consistent links between the availability of alcohol in a region and the alcohol-related problems experienced there.⁴¹⁻⁴⁶ The findings of Australian research on the impact of changes in alcohol availability was summarised by the National Preventative Health, “The results of this research are clear: liberalising alcohol availability is likely to increase alcohol-related problems”.⁴¹

Research shows that supply influences consumer demand in regard to alcohol. The physical availability of alcohol has the potential to influence the consumer's demand for alcohol, as well as the supply.² Increases in the physical availability of alcohol are often associated with an increase in the promotion of alcohol (e.g. at point of sale). The availability and promotion of alcohol stimulate demand for alcohol.⁴⁷ Understanding the relationships between alcohol availability, supply and consumer demand are relevant and important in planning how alcohol is made available in WA. Increased availability (supply), with associated increases in promotion, are likely to stimulate demand (alcohol consumption). It is therefore a more complex situation than simply increasing supply to meet a supposed consumer demand.

Packaged liquor

We have particular concerns about the physical and economic availability of packaged liquor. Packaged liquor accounts for a large proportion of alcohol consumed in Australia. It has been estimated that liquor stores (off-premise) make up less than 20% of all licensed outlets but are responsible for over 45% of all alcohol sold in WA (in 2000/2001).^{42, 48, 49} Given that packaged liquor stores account for such a large proportion of alcohol sold in WA, even a small percentage change in the availability of alcohol through packaged liquor outlets would be expected to have an identifiable impact on levels of alcohol consumption in WA.

The packaged liquor landscape in WA and Australia more broadly, has changed in recent years. There appears to be a growing focus on large-scale warehouse-style discount 'liquor barns' that have the capacity to sell many times more alcohol than traditional liquor stores.⁴⁸ Monitoring of liquor licence applications in WA has identified attempts by the large companies behind the liquor barns, for example Woolworths Limited (Dan Murphy's) and Wesfarmers Limited (First Choice Liquor), to substantially increase their presence in WA.⁵⁰

There is evidence of specific problems associated with the density of off-premise outlets (an indicator of the availability of packaged liquor), for example, violence^{51, 52} and child physical abuse.⁵³ Results of a WA study showed that the more alcohol sold per packaged liquor outlet (off-premise), the greater the risk of reported assault within the surrounding community – it was the volume of alcohol sold that had the greatest impact on assaults occurring in homes within the surrounding community.⁴⁸ It was found that alcohol sold by off-premise outlets (packaged liquor) was associated with increased interpersonal violence occurring in residential settings, on-premise outlets (e.g. bars and pubs) and 'other places', including in the street.⁴⁸ As domestic settings are a likely place for consuming alcohol purchased from off-premise outlets, they are a likely location for violence associated with off-premise alcohol purchases to occur.⁴⁸

The results of this WA study are also relevant to a consideration of 'pre-loading' behaviours, the practice of consuming alcohol prior to attending licensed premises (e.g. a hotel or nightclub). The research identified that purchases made from off-premise outlets (e.g. bottle shops) predicted the number of assaults at on-premise outlets (e.g. bars and pubs).⁴⁸ The price differential between alcohol purchased off-premise (e.g. at discount 'liquor barns') and on-premise (e.g. nightclub) has been suggested as a key motivation for 'pre-loading'.^{48, 54}

The harm related to packaged liquor is likely to occur away from the packaged liquor premises (e.g. bottle shops) – this harm should be considered in liquor licensing decision making regarding off-premise licences.

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A Victorian study identified that increased density of packaged liquor outlets was associated with increased prevalence of very high-risk drinking among the young people aged 16-24 years in the study.⁵⁵ The results suggested that an increased of one packaged liquor outlet in a postcode with 200 very high-risk young drinkers (from a total population of 1000 young people) would be expected to be associated with an increase of approximately 6 additional young people drinking at very high-risk levels.

Trading hours and days

Evidence from Australia^{44, 56, 57} and overseas^{58, 59} has consistently demonstrated that increased liquor trading hours are associated with increased alcohol-related problems, including violence in and around premises, violent crime and impaired driver road crashes. Conversely, earlier closing times have been associated with less alcohol-related harm, and restrictions on the trading hours of alcohol have been associated with reduced levels of alcohol-related problems.

A review of the available international literature on the public health and safety impacts of changes to liquor trading hours for on premise consumption suggested that extended late-night trading hours lead to increased alcohol consumption and related harms such as violence.⁵⁹

An evaluation of trading restrictions on 14 licensed premises in Newcastle, New South Wales found significant reductions in the incidence of police-recorded assaults after pub closing times were restricted to 3am (and later to 3.30am), compared with the nearby Hamilton area.⁴⁷ In March 2008, the NSW judiciary imposed restrictions on licensed premises in the Newcastle CBD which included bringing forward closing times from 5am to 3am (changed to 3.30am in July 2008 following a legal challenge); a 1am lockout for all premises (changed to 1.30am); prohibited the sale of shots after 10pm and the sale of more than four drinks to any patron at one time; and restricted the sale of alcohol 30 minutes prior to closing time. Police-recorded assaults in the CBD before and after the restriction were compared with Hamilton, a nearby area with a similar night-time economy but with no restrictions. In Newcastle, recorded assaults fell from 99.0 per quarter before the restriction (Hamilton, 23.4) to 67.7 per quarter afterward (Hamilton, 25.5). The restriction in pub closing times in Newcastle prevented 33 assaults per quarter and produced a large relative reduction in assault incidence of 37% in comparison to Hamilton.

Liquor stores not located in the Perth metropolitan region are currently not permitted to trade on Sundays. Decisions in relation to this situation must have regard for the impact of changes in the availability on alcohol-related harm. Increasing the number of liquor outlets able to trade on Sundays will represent an increase in the availability of alcohol. As detailed above, the increased availability of alcohol in a region is linked with increased levels of alcohol-related harm in the community. If Sunday trading provisions were widened in WA, appropriate increases in resourcing of the affected communities in regard to health services and law enforcement would be required to manage the anticipated increases in alcohol-related harms.

Regulation of the trading hours and days of alcohol outlets must be a central component of managing the availability of alcohol.⁴¹

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The economic availability of alcohol

The economic availability of alcohol relates to the price: the cheaper it is, the higher its economic availability. There is a strong evidence base to support policies that regulate the economic availability of alcohol as a strategy to reduce alcohol-related harm.⁶⁰

While we recognise the role of Federal authorities in regard to regulating the economic availability of alcohol, including through taxation and approaches to pricing, there are important areas where action at the State-level is both necessary and appropriate.

Young people are particularly price sensitive. Evidence on the impact of alcohol price on young drinkers consistently shows that changes in alcohol prices are related to changes in youth drinking.^{61, 62}

Research commissioned by the Drug and Alcohol Office in WA found that price, in terms of cheap liquor availability, influences increases in the frequency and quantity of alcohol purchased, and the frequency and quantity of alcohol consumed.⁶³ The availability of cheap alcohol appeared to have the greatest impact on purchasing and consumption behaviours of young people aged 18 to 29 years.

There is a need to address some alcohol industry practices which are of serious concern to groups working to prevent harm from alcohol. Concerning practices include heavy discounting of alcohol products, competition between liquor retailers focused on price, price-focused alcohol advertising and promotion, and the sale and promotion of large volume, very cheap alcohol products such as cask wine. Further to this, we have identified significant growth in the number of large-scale discount packaged liquor outlets ('liquor barns') in WA, which are themselves accompanied by masses of price-based promotion.⁵⁰ The increased availability of cheap liquor associated with the growth of liquor barns is of considerable concern to groups seeking to prevent harm from alcohol.

Certain types of alcohol are regularly advertised and sold at extremely low cost, in particular cask wine and 'cleanskin' wine. Surveys of drink preferences show that young people are likely to consume this type of wine.^{64, 65} Low cost alcohol products, such as cask wine, have been found to be associated with alcohol-related harms including night-time assaults and acute alcohol-related morbidity.⁶⁶ Examples of print advertisements for low cost wine are provided in Appendix A. Example One promoted three Berri Estates 5 litre wine casks (a total of 129 standard drinks) for \$30.00, which equates to \$2.00 per litre or just over \$0.23 per standard drink. Example Two promoted two Stanley 4 litre wine casks (containing a minimum of 66 standard drinks) for \$18.00, which equates to \$2.25 per litre or just over \$0.27 per standard drink. These examples are from Western Australian print media, and represent major retailers with many premises around the state (as well as online sales). These examples are in no way unique; many similar examples could be provided.

Alcohol is not only available to buy at very low cost, but low cost alcohol is also heavily advertised. A VicHealth study of alcohol advertising in Victorian daily newspapers over a 20 year period (1989-2009) found that alcohol advertising in newspapers is now dominated by large scale liquor retailers, or 'liquor barns', and greater prominence in advertising is given to the price of products through the promotion of special offers and bulk-buy discounts.⁶⁷ Price-focused alcohol advertising related to 'liquor barns' can also be seen through online, outdoor and other forms of promotion. Given that most large scale liquor retailers operate nationally, this situation is expected to be consistent in WA.

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It is well recognised that there is a substantial difference between the price of packaged liquor (e.g. take-away alcohol sold from bottle shops for consumption off-premise) and on-premise alcohol (e.g. alcohol sold at hotels and bars for consumption on site). Concerns have been expressed that this price differential has contributed to harmful drinking patterns.⁵⁴ 'Pre-drinking' or 'pre-loading', the practice of consuming alcohol prior to going out, often in substantial quantities and at a rapid pace, has emerged as a common practice among young people. Apparent motivations for this behaviour include avoidance of paying for high priced drinks at venues.⁶⁸ Concerns have been raised that pre-drinking may be linked to very high levels of alcohol consumption and a range of harms including alcohol-related violence.⁶⁸ Curbs on the availability of very cheap alcohol, with a particular focus on packaged liquor, may reduce the price differential between the two forms of alcohol sales and thereby reduce the financial incentive for 'pre-loading'.

Liquor licences rarely have restrictions on the price at which alcohol can be sold and applicants are not required to outline the price at which alcohol will be sold in their application.

The availability of alcohol at venues frequented by children, young people and families

Alcohol-free environments for families and young people outside the home are becoming rare.

In recent years, there appears to have been a trend in applications for liquor licences for businesses which have not traditionally been associated with alcohol. Many of these applications are for businesses and activities popular with children, young people and families, including cinemas, sporting clubs and leisure activity centres. There also appears to be a move towards 'family-friendly' licensed premises, for example, pubs which offer children's play equipment or activities for children to attract families.

For example, cinemas are frequented by young people under 18 years and are one of the few popular social or entertainment activities that are not strongly associated with the consumption of, or significant exposure to alcohol. Cinemas have traditionally been safe and popular entertainment environments for children, young people and families. Any increases to the availability of alcohol associated with these environments puts into serious question the safety and appropriateness of these environments for such groups.

Concerns regarding these trends relate to the increased exposure of children and young people to alcohol and drinking environments, which is likely to contribute to the normalisation of drinking among children and young people. As the availability of alcohol is often associated with alcohol promotion, there are also concerns regarding young people's increased exposure to alcohol promotion. There is a need for greater consideration of the cultural implications for young people of increasing the availability of alcohol in venues frequented by families and young people.

Summary

Increasing the physical and/or economic availability of alcohol is associated with increased consumption and alcohol-related harms. Strong controls on the availability of and access to alcohol are an essential component of a comprehensive approach to the prevention of harm from alcohol.^{41, 69}

Recommendations

The evidence base for the impact of the alcohol availability on alcohol use and related harms is now well developed; the Act should reflect the strength of the evidence now available. We urge that the Act adopt a

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pro-active style which acknowledges the strong and consistent evidence for reducing the availability of alcohol and amends the Act accordingly.

The McCusker Centre recommends that the Act adopt a pro-active, evidence-based approach to preventing harm from alcohol by acknowledging the strong and consistent evidence for reducing the availability of alcohol and focus amendments to the Act on reducing the availability of alcohol, not increasing availability.

The McCusker Centre cautions against changes to the Act that would increase the overall physical or economic availability of alcohol, including opening up new retail opportunities for alcohol in supermarkets or other premises currently prohibited under the Act. We further recommend that careful consideration be given to the potential for any proposed changes to the Act to lead to the increased availability of alcohol, and action be taken to prevent this where the potential is identified.

Outlet density and cumulative impact must be considered within the Act

There are currently no specific provisions within the Act that enable the consideration of alcohol outlet density, the cumulative impact of licensed premises or the clustering of premises in liquor licensing decision making.

Currently, each application is considered on its merits, without sufficient regard to the broader context. Liquor licensing processes appear to have little regard for the harms related to the general increase in availability of alcohol from more and more licensed premises, which contributes to increased consumption and normalisation of alcohol.

While the Act does not support the consideration of outlet density, there is evidence that the Department of Racing, Gaming and Liquor (DRGL) acknowledge problems related to the cumulative impact of licenses. The DRGL 2011/12 annual report states, “The proliferation of liquor outlets is not in the public interest”.⁷⁰ To prevent the proliferation of liquor outlets, consideration of the cumulative impact of licensed venues and curbs on the density of outlets must be embedded within the Act.

The density of alcohol sales outlets is a frequently used measure of availability.⁷¹ Australian^{45, 72-74} and international^{51, 52} evidence has established consistent associations between the density of licensed premises in an area and rates of violence, with further evidence relating to road crashes,^{75, 76} child abuse and neglect,⁵³ neighbourhood amenity,⁷⁷ and mental health.⁴⁶

Increased outlet density leads to an increasingly competitive alcohol market-place, which may result in lower prices.⁷⁸ In this situation, alcohol consumption would be expected to increase. Research has identified strong effects of outlet density, in particular the ‘bunching’ of licensed premises, on the short term harms related to concentrated drinking on a single occasion (binge drinking), such as alcohol-related injuries and violence.⁷⁸

Following a review of the research literature on the effects of alcohol outlet density on alcohol consumption and related problems, the researchers concluded⁷⁸:

“Given the consistent links between outlet density and violence rates across a range of settings, study designs and data sources, a liquor licensing regime serving the interest of public health and

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order should incorporate consideration of outlet density and bunching into licensing decisions.”
[p564]

WA has the opportunity to learn from the experience of other Australian cities in regard to outlet density and the problems of relaxed regulations. The cities of Melbourne and Sydney have experienced such a degree of alcohol-related problems that a freeze was imposed on certain categories of liquor licences in specified areas of the cities.

The Melbourne experience

In Victoria, regulatory changes over a number of years had the effect of relaxing licensing restrictions and trading hours. These changes were intended to increase efficiency and convenience, and move Victoria towards a more European style drinking culture (see page 36 for information relating to the European drinking culture). The regulatory changes failed to have proper regard for the evidence linking increased availability of alcohol with increased consumption and harms.^{42-45, 73} The deregulation of liquor licensing in Victoria led to a substantial growth in alcohol availability, in terms of the number of outlets and the hours of trade.⁷⁸ Between 1996 and 2010 there was a 120% increase in licensed premises in Victoria.⁷⁹ As at 30 September 2010, there were 18,872 liquor licences in Victoria, the equivalent of one licensed premise per 229 Victorians aged 18 years or older.⁷⁹

In response to evidence of a correlation between anti-social behaviour in the early hours of the morning and the operation of licensed venues that supply alcohol after 1.00am, the Victorian Government put a freeze on issuing late night liquor licences to trade beyond 1am in the City of Melbourne in May 2008. The Victorian Government considered that the alcohol-related anti-social behaviour was contrary to the objects of the Liquor Control Reform Act 1998 “in that it detracts from the amenity of community life, does not reflect community expectation and is harmful to the responsible development of the liquor and licensed hospitality industries”. The freeze policy applies to applications in the local government areas of Melbourne (including the Docklands), Port Phillip, Yarra and Stonnington. Until 30 June 2013, no new late night licences in a range of categories will be issued unless the applicant can demonstrate exceptional circumstances.⁸⁰

The Sydney experience

Authorities in Sydney have also implemented a liquor licensing freeze in response to high levels of alcohol-related harm in some areas of Sydney.⁷²

A freeze was announced in June 2009 by the then Premier following “requests for action to address disproportionate negative impacts in a number of areas from a high concentration of licensed venues, late night trading and escalating alcohol related violence”.⁸¹ The freeze was placed on certain categories of liquor licences in some precincts of Sydney and extended until December 2012 for CBD South, and extends to December 2013 for Oxford Street/Darlinghurst and December 2015 for Kings Cross. Most licence categories are included in the freeze for new licences and extended trading applications. The stated aim of the liquor freeze legislation is⁸²:

“to halt the growth in patron numbers in these precincts and to prevent a further deterioration of safety and amenity while longer-term, integrated, evidence-based and sustainable solutions are developed and implemented.

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The extensions will also enable the NSW Government Office of Liquor, Gaming and Racing to complete research into the relationship between liquor licence density and alcohol-related issues. This research is intended to inform future policy making.”

The changes implemented as part of the freeze were intended to contribute to the revitalisation of the areas and “help diversify its night time economy from an over reliance on bars and hotels”.⁸¹

It would be foolish of WA to ignore the international experience and that of other Australian cities and continue towards unsustainable clustering and density of liquor outlets.

As Professor Sir Ian Gilmore points out, it is easy to make claims that we should move towards a “Continental, wine-sipping cafe culture” but the best advice is “Don’t go down the path of deregulating and treating alcohol as a normal commodity”.⁸³

Recommendation

Amend the Act to empower liquor licensing decision makers to consider outlet density, the cumulative impact of licensed premises and the clustering of premises.

Prohibit the supply of alcohol to minors without the permission of parents/guardians in all settings, supported by appropriate penalties (secondary supply)

The provisions within the current Act only relate to the supply of alcohol to minors on licensed premises and do not address the supply of alcohol to minors in private settings.

Currently in WA, anyone can provide any child with any amount of alcohol in private settings.

WA has fallen behind other jurisdictions in protecting children and adolescents from the supply of alcohol in private and other non-licensed premises. The National Health and Medical Research Council advise that for children and young people under 18 years, not drinking is the safest choice.¹² Further action is required to reduce young people’s access to alcohol.

In the majority of Australian States and Territories, laws control the secondary supply of alcohol to minors in private settings. These laws state that only a parent, or an adult acting in the place of the parent, or with the formal approval of the parent, can supply a minor with alcohol in a private residence. Secondary supply legislation is in place in New South Wales (since 2007),⁸⁴ Queensland (since 2009),⁸⁵ Tasmania (since 2009),⁸⁶ Victoria (since 2011)⁸⁷ and the Northern Territory (since 2011).⁸⁸ A second offence of ‘irresponsible supply’ occurs in some states when a person provides an excessive amount of alcohol or does not supervise the minor’s consumption of that alcohol to ensure it is consumed safely.

The Act should include provisions to prohibit the secondary supply of alcohol to minors without the authorisation of parents, carers or guardians, and where authorised, the provisions should have regard for the irresponsible supply of alcohol to minors. The provisions regarding the irresponsible supply of alcohol should require that alcohol may not be supplied in excessive quantities and the minor’s consumption of alcohol must be supervised to ensure it is consumed safely.

There is strong community support for secondary supply laws. An independent survey of 1600 West Australian adults conducted by the Painted Dog Research company in April 2012 (commissioned by the

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McCusker Centre for Action on Alcohol and Youth) showed: 88% of Western Australians support the introduction of laws to prevent the supply of alcohol to minors without parental permission (with only 5% opposed).⁸⁹ Secondary supply legislation is also supported by the WA Education and Health Standing Committee.²³

Appropriate provisions to prohibit the secondary supply of alcohol to minors in WA would reinforce and support the role that parents play in providing a supportive and safe environment for their children in regard to alcohol. Secondary supply legislation would assist in supporting parents and other adults who do not want to give alcohol to minors, setting a community standard regarding the supply of alcohol to young people, and influencing societal norms on underage drinking.

Secondary supply laws provide an opportunity for public education about the risks of alcohol use by children and adolescents. The introduction of secondary supply laws must be accompanied by a comprehensive, sustained public education campaign adequately resourced to ensure the WA community is well informed of the laws and the importance of delaying young people's use of alcohol.

Recommendation

Amend the Act to prohibit the supply of alcohol to minors without the permission of parents or guardians in all settings (secondary supply). Support the legislation with appropriate penalties and a comprehensive public education campaign about the laws and the importance of delaying young people's use of alcohol.

Continue the role of the Executive Director, Public Health and WA Police to intervene in proceedings before the licensing authority

The role of the EDPH in intervening where liquor licence applications may impact on the community's health is important and should continue.

We strongly support the roles of the Executive Director, Public Health and the Commissioner of Police in regard to intervening in proceedings before the licensing authority for the purpose of introducing evidence or making representations in relation to matters relevant to the public interest, as outlined in section 69 of the Act.

Given the burden of alcohol-related harms on health and law enforcement resources, it is essential and appropriate that the role of the EDPH and WA Police to intervene in proceedings before the licensing authority continues to be supported within the Act.

Recommendation

Maintain the roles of the Executive Director, Public Health and WA Police to intervene in proceedings before the licensing authority.

Community access to and participation in liquor licensing processes should be well supported

Liquor licensing processes should provide for meaningful community access and participation. The Act and the way it is administered by DRGL should enable and support effective community engagement in liquor licensing processes.

Currently, the Act and the way it is administered does not provide for meaningful community access and participation. The current liquor licensing processes are not easily accessible to community members wanting to communicate their concerns about a liquor licence application. Regard for community engagement is largely absent from current liquor licensing processes in WA.

Liquor licensing processes are not well understood by community members. The McCusker Centre receives regular contact from WA community members who have concerns about proposed liquor outlets in their area but are unsure what they can do or how to communicate their concerns to the appropriate authorities. There appears to be little support provided to community objectors by licensing authorities and it is unreasonable to expect an organisation like ours to fill this role.

The McCusker Centre has submitted objections to a number of liquor licence applications and has experienced the complexities and challenges of making objections first hand. The challenges we have faced in making objections would be multiplied for community members trying to have their say without the support of a professional organisation.

Community access, participation and representation in liquor licensing processes are restricted by a range of factors. These include:

1. There are limited requirements for applicants to inform communities of liquor licence applications. Applications may be advertised via a notice on the site of the premises, a list on the DRGL website (if you know where to look), a notice printed in The West Australian, a letter drop to residents and businesses within a 200m radius of the proposed premises, and a notice distributed to key groups in the locality. It is unlikely that these advertising methods are sufficient to ensure all of the relevant community members are aware of advertised applications, in sufficient time to prepare an objection in the format currently required.
2. There is a very limited understanding of liquor licensing processes among the community and many relevant professionals.
3. Very limited, if any, support is provided to community objectors by DRGL or other bodies. There are no community-appropriate resources provided by DRGL to support or assist potential community objectors to lodge objections. The Notice of Objections information bulletin no.12 provides some information in regard to lodging an objection, but the information is not presented in an accessible manner for community members; the language is overly formal and is likely to intimidate potential objectors. Limited information is provided on the DRGL website for objectors and there is no contact provided for community members requiring assistance in preparing an objection. It appears that more support is provided by DRGL to licensees or potential applicants than community members concerned about a licence application.
4. The resources available to applicants and objectors are far from equal. Applicants may engage legal expertise to assist in developing their licence application and provide support throughout the licensing processes. Community objectors may have no additional resources available to them, no experience in lodging objections, little understanding of the liquor licensing process and little time, yet they have the burden of establishing the validity of their objection.
5. Processes can entail a mass of lengthy documents.
6. The onus of proof is placed on community objectors to establish the validity of their objection. It would be enormously difficult for community objectors to access the required localised level of evidence to support an objection, if such information exists, particularly in regard to an application

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- for a new licence. Objections often get struck off for failing to establish the validity of the objection, for example, the objection may be considered too general and not specific to the application. The level of evidence required to establish the validity of an objection is very difficult to achieve (e.g. that the grant of an application would pose an unacceptable risk of alcohol-related harm in the community).
7. The requirements for a valid objection are inflexible. Concerned community members have no way of demonstrating their concern about a licence application unless they have the resources (e.g. time, literacy level) to navigate the unfamiliar and complex formal objection process.
 8. The complexity of lodging objections and participating in a legalistic process. Community objectors may be required to understand and respond to documentation prepared by legal experts. A high level of literacy is required to engage in formal government processes. For example, objectors are required to access and interpret the documents relating to the application, write an objection on the basis of specific grounds for objection outlined in the Act, obtain a high level of evidence to support their objection (although it is not clearly stated anywhere the particular evidence required), complete Form 17 correctly and have it signed by a witness, scan or photocopy the documentation, 'serve' a copy of an objection on the applicant, submit the objection to DRGL, wait for a response, participate in further submission rounds and so on.
 9. The protracted nature of the processes. Objectors may be required to participate in multiple submission rounds (e.g. where applications are amended), and must be prepared to receive and respond to communications relating to their objection at any time. Objectors may wait months or years to be informed of licensing decisions and are not provided with a timeframe as to when to expect an outcome.
 10. If objectors are unhappy with the Director's decision they may lodge an appeal with the Liquor Commission, which may be very costly and time-consuming, with no expectation that there will be a favourable outcome. The potential legal costs would be beyond the capacity of most community members and non-government organisations.

In summary, ordinary members of the public are effectively barred from these processes. The process is heavily skewed towards the interests of those who wish to sell alcohol. There should be a clear and greatly simplified process through which members of the public can participate and make their views known.

Considering the level of difficulty involved with submitting an objection, it is expected that many applications pass through without objections, even if the proposed licence is of concern to many in the community. As a consequence, community interests are not adequately represented in liquor licensing processes, while those applying for liquor licences are generally vastly better resourced to have their interests represented.

The challenges of community access to and participation in liquor licensing processes are further compounded by a lack of transparency regarding licence applications under consideration. Once an application has completed its required advertised period the information relating to the application is removed from the DRGL website. From that time, the status of applications is unclear and the community has no way of knowing what or how many liquor licence applications are being considered in their community. To encourage transparency in liquor licensing processes, liquor licence applications under consideration by the licensing authorities should be listed on the DRGL website along with information regarding their status. At the request of the McCusker Centre, a list of pending applications was made available on the DRGL website; however, DRGL have decided to discontinue this practice.

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Recommendation

To ensure community interests are appropriately represented, the factors preventing community access and participation in liquor licensing processes must be comprehensively addressed. Strong community participation, with regard for vulnerable members of the community and those with limited resources, should be a feature of the operation of the Act.

Maintain the requirement for liquor licence applications to demonstrate the Public Interest

We strongly support the continuation of the requirement for applicants to complete a Public Interest Assessment, as outlined in section 38 of the Act. A Public Interest Assessment should remain a requirement for applications for all liquor licence categories.

Consideration of the public interest should include the public health interest.⁴⁶ Regard for the public interest, including the public health interest, should be paramount in liquor licensing decision making. Amending the primary objects of the Act to give the highest priority to preventing and minimising harm and ill-health would be consistent with the requirement for applications to be in the public interest.

Recommendation

Maintain the Public Interest Assessment requirement for applications for all liquor licence categories.

Licensed premises should be prevented from becoming higher risk

We have concerns about changes to liquor licences that would have the potential to increase the risk associated with the licence. Such changes include:

- Restaurants serving liquor without a meal, whereby restaurants effectively operate as bars. The requirement of a meal for alcohol to be supplied in a restaurant is a substantial factor in restaurants being associated with lower risk.
- Increasing maximum patron numbers, for example the current restriction of 120 persons for small bars.
- Extending the trading hours of a licensed premise.

By removing the features that make lower risk venues lower risk, a new venue is created with different associated risks. As detailed above, increasing the availability and access to alcohol is associated with problems.

Where licensees seek to make changes to the way they operate and where those changes would have the potential to increase the risk associated with the premise, the licensee should be required to notify the community and establish that the changes will not contribute to alcohol-related harms and, where appropriate, apply for a new licence.

Recommendation

Ensure appropriate community consultation procedures and public interest assessment requirements for changes to licensed premises that have the potential to increase the risks associated with the premise.

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Ensure effective monitoring and enforcement of all provisions of the Act

To achieve the objects of the Act, compliance with the Act needs to be monitored and enforced.

Enforcement of liquor laws is a critical element in the success of their implementation. The threat of enforcement must be seen by the target group as a real possibility, therefore enforcement activity should be frequent, unpredictable, strongly publicised and ongoing.^{24, 57}

Weaknesses in the monitoring and enforcement of the Act identified in the WA Auditor General's 2011 report must be addressed.²⁴ Areas of weakness identified by the WA Auditor General include:

- DRGL and WA Police monitor and enforce some key provisions of the Act but neither agency is effectively monitoring or enforcing the responsible service of alcohol. DRGL considers it does not have the resources or powers to conduct activities in this area, while WA Police focus their efforts in other areas. Responsive enforcement action (e.g. fines, prosecutions) is only possible if evidence has been gathered through the effective monitoring of licensed premises.
- Education and training requirements for licensees and their staff are limited, so staff may not have the necessary knowledge to manage their premises safely and responsibly.
- Neither agency has comprehensive information on the patterns and causes of incidents in and around licensed premises. This information could be used to identify early indicators of licensed premises becoming problematic and to support preventive action.
- The Act makes licensees and staff responsible for how alcohol is served, but they have faced little risk of enforcement by WA Police for serving or allowing a drunk person on licensed premises.
- The bulk of enforcement effort is directed towards individual drinkers rather than licensees and their staff. The Act's aim of minimising harm in and around licensed premises is more likely to be achieved by making licensees and their staff accountable, rather than individual drinkers. To effectively regulate licensed premises, monitoring and enforcement activity should focus on the conduct of the licensee, manager and staff.

The design and resourcing of strategies to monitor and enforce compliance with the Act must have regard for the unique challenges within WA, for example, the size of the state. It is our understanding that the DRGL has only 6 compliance officers covering both liquor and gaming. This level of resourcing is inadequate.

We recognise there is much excellent work by the WA Police in this area. The WA Police and DRGL must be adequately resourced and have appropriate powers to ensure that all provisions of the Act are effectively monitored and enforced.

Recommendation

Ensure the WA Police and DRGL are adequately resourced and have appropriate powers to effectively monitor and enforce all provisions of the Act. Monitoring and enforcement resources should be increased in line with the provision of new liquor licences.

Sale of alcohol to minors

Some young people believe it is fairly easy for underage young people to purchase alcohol from licensed premises in WA.⁹⁰ Research in WA has shown that a significant number of underage young people or

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underage looking young people are able to purchase alcohol from retail outlets without having their age verified.^{9, 23, 91}

Analyses of the 2011 Australian School Student Alcohol and Drug survey results show that almost one-third (29.8%) of WA 17 year olds and one in ten (10.5%) of WA 16 year olds who reported drinking in the last week bought their alcohol from a licensed outlet.⁹² Licensed outlets included: a hotel, pub, bar, tavern, RSL Club; a licensed liquor store or supermarket; a walk-in bottle shop at a pub or hotel; a drive-in bottle shop; a restaurant; a dance venue/dance party; a nightclub; a sporting event; and, a sports club.

Research conducted in 2006 with WA liquor retailers using young people who were 18 years old but looked younger found that 77% of the outlets visited sold alcohol to underage-looking 18 year olds without checking identification.⁹¹

On the basis of this WA evidence, there is a need for improved monitoring and enforcement practices to prevent underage access to alcohol from licensed premises.

Controlled purchase operations

Controlled purchase operations (also called 'test purchasing' or 'compliance monitoring') would enable police to monitor and enforce existing legislation regarding the sale of alcohol to minors. In controlled purchase operations, an underage person enters a licensed premise under controlled conditions to attempt to purchase alcohol. If the underage person is successful, the accompanying police can lay the appropriate charge against the retailer. Such operations are used for alcohol in New Zealand and the United Kingdom. Controlled purchase operations are undertaken in WA for compliance monitoring of tobacco sales, but are not currently allowed for alcohol.

Amendments to the Act are required to enable police and volunteers under 18 years to undertake controlled purchase operations for alcohol, and to provide them with the appropriate protection from prosecution.

There is strong support from the community and WA Police for controlled purchase operations to give police greater powers to monitor and enforce existing laws regarding alcohol sales to minors.²³ An independent survey of 1450 West Australian adults conducted by the Painted Dog Research company in November 2012 (commissioned by the McCusker Centre) showed: 76% of Western Australians support additional police powers to ensure liquor outlets do not sell to minors by allowing police to work with under-age young people to attempt to purchase alcohol (with only 9% opposed).³⁴ The Education and Health Standing Committee, in their 2011 report, *'Alcohol: Reducing the Harm and Curbing the Culture of Excess'*, recommended that the Act be amended to allow police to conduct 'controlled purchase operations' to assist in the identification and prosecution of licensees suspected of breaching the Act by selling alcohol to minors.²³

It is clear from a range of sources that many underage young people are able to purchase alcohol directly from licensed premises in WA.^{9, 90, 91} As controlled purchase operations would simply enable police to monitor compliance with the existing provisions of the Act regarding sales to minors, the use of controlled purchase operations should not be a problem for licensees who comply with the Act.

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Recommendation

Amend the Act to enable police and volunteers under 18 years to undertake controlled purchase operations for alcohol, and to provide them with the appropriate protection from prosecution.

Definition of 'drunk'

Police should be properly equipped to identify a patron that is drunk. We encourage consultation with the WA Police to identify and address any existing challenges regarding identifying or proving that a patron is drunk.

The number of prosecutions for serving alcohol to drunk patrons or allowing a drunk person on the premises is inconsistent with the number of drunk patrons present in some licensed premises.^{24, 93} The reasons for the low level of enforcement should be identified and addressed.

Section 115 of the Act states:

“Disorderly persons etc. (1) Where a licensee, whether personally or by an employee or agent – (a) permits – (i) drunkenness; or (ii) violent, quarrelsome, disorderly or indecent behaviour, to take place on the licensed premises...that licensee, and the employee or agent concerned, commits an offence.”

Approved managers and licensed premises must be held accountable for drunk patrons on their premises. We submit that it should be sufficient for a patron to be drunk on licensed premise for the approved manager and licensed premise to draw a penalty. The authorities should not be required to prove that a licensee “permits” drunkenness to take place on the licensed premise in order for the licensee to commit an offence.

Recommendation

Ensure police are properly equipped to identify a patron that is drunk. Amend the Act to remove the requirement to prove that a licensee “permits” drunkenness to take place on the licensed premise in order for the licensee to commit an offence.

Penalties

MCAAY supports appropriate and timely monetary, or other, penalties for breaching the Act.

The credible threat of a substantial penalty is an important part of best practice in the regulation of the liquor industry.²⁴ The perception of insufficient penalties for liquor law breaches has been identified as a barrier to policing licensed premises.^{94, 95}

Recommendation

Ensure appropriate and timely monetary, or other, penalties for breaching the Act.

Liquor restrictions

The Act currently provides for the implementation of liquor restrictions to address alcohol-related harm in an area. The relevant provisions of the Act include⁷⁰:

1. Part 5B of the Act allows for the declaration of private premises as liquor restricted premises.

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2. Section 175(1a) of the Act enables an area to be declared a restricted area that prohibits the bringing in, possession and consumption of liquor in the declared area.
3. Section 64 of the Act provides the Director of Liquor Licensing with the authority to act in the public interest to impose restrictions on the sale of liquor from licensed premises to address alcohol-related harm in an area (e.g. Fitzroy Crossing, Halls Creek, Kununurra, Wyndham, Derby, Northern Goldfields).

Whole of community approaches, including liquor restrictions, can make important contributions to the required comprehensive approach needed to effectively and sustainably reduce alcohol-related harm.

Liquor restrictions have made important contributions in a range of areas in WA including Halls Creek and Fitzroy Crossing where benefits have been seen across a broad range of health and social indicators.^{96, 97}

All interventions, including liquor restrictions, should be accompanied by comprehensive evaluation. Where liquor restrictions are introduced, licensees should be required to regularly submit returns of sales data to the liquor authorities to enable thorough evaluation of the restrictions and any other concurrent policy changes.

We believe the current provisions within the Act which allow for the implementation of liquor restrictions, with appropriate community consultation and support, should continue.

Recommendation

We support the continued use of the existing provisions of the Act which provide for the implementation of liquor restrictions to address alcohol-related harm in an area.

Where required, the implementation of the existing provisions of the Act regarding liquor restrictions should be strengthened, for example, through the introduction of appropriate controls to restrict the transport of alcohol to and between areas with liquor restrictions.

Protect children and young people from exposure to all forms of alcohol advertising, marketing and promotion

We are encouraged that the advertising and marketing of liquor products was specifically noted as an area the committee should consider within the review's terms of reference.

Exposure to alcohol advertising influences young people's beliefs and attitudes about drinking, and increases the likelihood that adolescents will start to use alcohol and will drink more if they are already using alcohol.⁹⁸ Alcohol promotion contributes to the normalisation of alcohol use⁹⁹ and reinforces the harmful drinking culture that exists in Australia.

Alcohol is one of the most heavily marketed products in the world¹⁰⁰ and young people are exposed to alcohol promotion in a wide range of forms including television, radio, online, sponsorship, print, outdoor and product placement.⁹⁹ In addition to advertising by alcohol companies, recent years have seen an increase in advertising by retail outlets, often with promotions that may be especially attractive to young people.

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Alcohol advertising in Australia is subject to an ineffective system of self-regulation which has consistently failed to ensure alcohol promotion is socially responsible and that exposure to young people is minimised.^{99, 101-103}. Legislated controls on all forms of alcohol advertising and promotion are urgently required. Action in this area should focus on protecting children and young people from exposure to all forms of alcohol advertising, marketing, sponsorship and promotion.

The Act is currently very weak in regard to alcohol advertising and promotion. We support strong provisions in the Act to prevent young people's exposure to alcohol promotion, reduce the volume of alcohol promotion in the community and ensure alcohol promotions are socially responsible.

Strong community support exists for independent regulation of alcohol advertising. An independent survey of 1450 West Australian adults conducted by the Painted Dog Research company in November 2012 (commissioned by the McCusker Centre for Action on Alcohol and Youth) showed: 71% of Western Australians support legal controls to reduce young people's exposure to alcohol advertising (with only 6% opposed).³⁴

There are a range of options available to prevent young people's exposure to alcohol promotion. Potential approaches to preventing exposure to alcohol advertising and promotions include:

- Curbs on the extent and content of alcohol advertising and promotion in WA.
- Restrictions on alcohol advertising and promotion as conditions of liquor licences. For example, provisions that restrict advertising on the outside of licensed premises within 500m of schools and venues frequented by juveniles.
- The ability to declare alcohol promotion-free zones. For example, around schools and venues frequented by juveniles.
- Phasing out alcohol promotion on government property (e.g. public transport such as buses and government land where alcohol is frequently advertised and young people are exposed).
- Restrictions on online alcohol promotions, including the use of social media and digital technologies.

Recommendation

Alcohol advertising and promotion should be identified as an area of particular concern. Introduce measures to prevent young people's exposure to all forms of alcohol promotion, reduce the volume of alcohol promotion in the community and ensure alcohol promotions are socially responsible.

Maintain the structure and operation of the Liquor Commission

We support the current structure and operation of the Liquor Commission of Western Australia. There is consensus that the Liquor Commission is currently working well and should be maintained.

Recommendation

Maintain the structure and operation of the Liquor Commission.

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Liquor licence categories

There may be calls to reduce the “red tape” associated with liquor licensing. However, some processes should not be dismissed as mere “red tape”; they exist to ensure good process and to protect the community.

Tourism

We support genuine tourism-related liquor licences. We have concerns regarding some liquor licences granted on tourism grounds, where there appears to be little genuine tourism value.

Currently, liquor licence applicants are not required to provide evidence to support claims about the tourism value of new licensed premises. Applicants should be required to substantiate claims of benefits to tourism with appropriate evidence.

Liquor restrictions in regional WA have had a range of positive impacts. When implemented as part of a comprehensive approach to prevent harm from alcohol, liquor restrictions can support increased tourism by attracting visitors through improved community safety and public amenity. Public safety and order is an incentive to tourism, as has been identified in Halls Creek.

Recommendation

Require applicants to substantiate any claims of benefits to tourism with appropriate evidence.

Online sales of alcohol

In March 2012, the DRGL circulated a discussion paper on the proposal to introduce new licensing arrangements for direct liquor sales. MCAAY made a submission in regard to the discussion paper; however, we are not aware of any outcomes from the consultation process. The position of the McCusker Centre outlined here is consistent with our submission to the DRGL discussion paper.

We acknowledge the growth of online shopping in recent years and that it is now commonplace for consumers to purchase many types of products online and have them delivered to their door. However, alcohol is no ordinary commodity. Alcohol is an inherently risky product with the potential to cause significant short and long term harms to drinkers and others, and deserves to be treated differently to other consumer products.

We have concerns about the potential impact of the growth of online sales of alcohol on the already worrying levels of alcohol consumption and alcohol-related harms among young people. Regard for preventing harm must come above business concerns.

The growth of online sales of alcohol would have the potential to significantly increase the access and availability of alcohol as it would represent an extension to the existing means of accessing alcohol. Liquor would be available to order and have delivered over longer hours than currently occurs at physical liquor stores, and would be in addition to all the currently available means of accessing liquor.

There are some important differences in the way liquor home delivery services would be expected to operate, compared to other licence types. Liquor home delivery services operate over a broad area (e.g. the whole Perth metropolitan area) and therefore have the potential to increase the availability of alcohol

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over a large geographic area. This is different to a physical liquor store where the alcohol consumption and related harms would be expected to be contained at least to some extent within a particular locality where population characteristics and any at risk groups could be identified. There would be no such defined locality for an online liquor retailer.

Online liquor sales would operate over and above physical liquor outlets, could potentially operate for longer hours and more days than physical liquor outlets, and would be difficult to account for in measures of outlet density. Yet, online liquor sales have the potential to significantly increase access and availability of alcohol through the convenience of online (or phone, fax etc) ordering and home delivery, and no proposed limits on the quantity of alcohol that can be purchased. This potential impact must not be underestimated.

We have further concerns that a growth in online liquor sales would contribute to the normalisation of alcohol use, particularly among young people, through the resulting increase in the availability of alcohol and the increased access from having alcohol delivered to the door. With the increasing normalisation of alcohol, young people are encouraged to view alcohol as just another consumer product, not a product that can cause significant short and long term harms to the drinker and others when used inappropriately.

The experience of other jurisdictions in regard to 'direct sales licences' provides further cause for concern. DRGL's discussion paper notes that as at 31 January 2012, there were 402 Direct Sales Licences in operation in South Australia. This is an extraordinarily large number of licences, given that they relate to just one of a number of types of liquor licences available. The potential proliferation of online liquor retailers in WA, if further development of internet sales of alcohol was supported, is a real threat. It could reasonably be expected that, in general, more liquor licences in operation would result in greater availability of alcohol, more alcohol use, more alcohol harms, more access to alcohol for all age groups and more demand being placed on already stretched monitoring and enforcement resources. Where we have the opportunity to learn from the experience of other states, such as South Australia and Victoria where direct sales licences are available, it is essential that we do so in a comprehensive manner if further growth of online liquor sales is to be considered in WA.

Online liquor sales would create special challenges for monitoring and enforcement. There is even now great concern about the inadequacy of legislative and other controls on sales of alcohol to minors (for example, controlled purchase operations) and the resourcing of the WA Police and DRGL to effectively monitor and enforce all provisions of the Act. Potential problems of online liquor sales include the delivery of liquor to unattended premises or to juveniles. In our view, monitoring of online liquor sales would be near impossible.

We have concerns about existing licensees that operate online liquor stores and provide home delivery services as it is unclear how the existing services are monitored and little is known about how such services operate and the potential negative impacts. It is concerning that there may be a proliferation of such business types if further growth in online liquor sales was supported by the Act.

Serious weaknesses in the monitoring and enforcement of existing liquor licences in WA have been identified.²⁴ Until these weaknesses are fully addressed and the monitoring and enforcement of existing licences are shown to be effective and sustainable, it would be premature and potentially harmful to increase the burden on WA Police and departmental compliance staff by expanding the online availability

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of alcohol, while also maintaining provision of the existing licence types. Any expansion of liquor licensing must be accompanied by an adequate increase in resourcing for monitoring and enforcement.

Summary

Further development of online sales of alcohol has the potential to significantly increase the access and availability of alcohol. The impact of increased alcohol availability on alcohol-related harm and the normalisation of alcohol, particularly among young people, are of great concern.

We have serious concerns as to how effective monitoring and enforcement of online liquor sales could be. Liquor licensing processes are already almost inaccessible to community members. It is unclear how community members could meaningfully participate in the licensing process in online liquor retailers, which have no specific locality in which they operate.

Recommendation

Conduct a comprehensive evaluation of direct sales licences (or the equivalent) in operation in South Australia and Victoria, which should include community consultation, evaluation of the impact of direct sales licences on the availability and access to alcohol, and a review of the effectiveness of monitoring and enforcement procedures.

If a direct sales licence category is considered appropriate on the basis of the comprehensive evaluation of equivalent licences in other states, initial approvals should be on the basis of a very limited number of licences in a trial with comprehensive independent evaluation. In determining an appropriate limit, the highest regard should be given to minimising harm and monitoring and enforcement capacity. The licence type should be defined to enable effective monitoring and enforcement and constraints on the promotion of alcohol should be a standing condition of licences.

Small bar licences

Under the Act, a small bar licence authorises the sale and supply of liquor for consumption on the premises only and sets a maximum capacity of no more than 120 people at any one time.

The current process of submitting a Public Interest Assessment as part of an application for a small bar licence is appropriate and should remain to provide some level of assurance that the grant of the application is in the public interest.

The maximum capacity set for small bars of no more than 120 people at any one time should remain, to ensure small bars remain small. The existing size of small bars is part of why they may present less risk than some other licences.

Commentary regarding small bars often presents small bars as a low risk licensed premise. The Hon Terry Waldron, Minister for Racing and Gaming, said of small bars, "...there's always a nice atmosphere and I think it does promote a very low risk and responsible drinking culture".¹⁰⁴ Comments such as this appear to present a very narrow picture and to have missed the evidence from Victoria and elsewhere. Any policies in relation to increasing small bar access are irresponsible if not accompanied by an effective program to reduce alcohol problems in the community.

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While an individual small bar may well present a lower risk in terms of alcohol-related harm than a large capacity hotel or nightclub, the actual level of risk will depend on how and within what context the small bar operates. For example, where a small bar has an extended trading permit, it is likely to be associated with higher risk than a small bar without an extended trading permit. The cumulative impact of multiple small bars or a combination of small bars and other types of licensed premises in an area is also relevant to a discussion of the risks associated with small bars. The reality is that a small bar does not operate in isolation, and may contribute to the clustering of liquor outlets or further contribute to the availability of alcohol in an area. The idea that all small bars represent a low risk and therefore the application requirements for a small bar should be reduced is an over-simplification and misrepresentation of the situation.

Small bars have not yet been the focus of policy-relevant research. It is too early to know the real impact of small bars on alcohol-related harms in WA. However, there is sufficient evidence from other jurisdictions to warrant a cautious approach towards small bars and as such, to maintain the current patron numbers, trading hours and requirement for a Public Interest Assessment.

Recommendation

The existing application requirements for a small bar licence should remain. Policy approaches to small bars should not support a proliferation of small bar licences. Independent research is needed to develop a comprehensive understanding of the impact of small bars on alcohol use in Australia.

Inappropriate alcohol products should be removed or prevented from entering the market in a timely manner, on the basis of a reasonable level of evidence

Removing inappropriate products

The Act contains provisions which would allow for the removal of undesirable liquor products (Section 126D); however, we have concerns about the way these provisions are interpreted and implemented.

Section 126D of the Act, Sale of undesirable liquor products, states:

- (1) The Governor, on the recommendation of the Minister, may make regulations under section 175 that declare liquor in the form of a specified product, or a product of a specified class, to be an undesirable liquor product.

[(2) regarding penalties is not included here as it is not considered relevant]

(3) The Minister may recommend the making of regulations for the purposes of subsection (1) only if – (a) the Minister consider that -

- (i) Designs, motifs or characters on the packaging of the product concerned are of such a kind that the product is, or is likely to be, attractive to juveniles; or
- (ii) The product is likely, for any reason, to be confused with soft drinks or confectionery; or
- (iii) The product, for any other reason, has or is likely to have a special appeal to juveniles; or
- (iv) It is otherwise in the public interest to do so;

and

(b) the Minister has complied with subsection (4).

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(4) Before recommending the making of regulations for the purposes of subsection (1), the Minister is to consult with relevant liquor industry representatives and the manufacturer of any product proposed to be declared to be an undesirable liquor product (if the manufacturer is known to the Minister).

Our concerns are based on two main reasons:

- 1) We are not aware of any products being removed from the WA market in relation to Section 126D of the Act.
- 2) Experience of the McCusker Centre in raising Section 126D in regard to a specific product.

On 27 January 2012, the McCusker Centre wrote to the Minister for Racing and Gaming to request that the Bacchus Shot Bucket be removed from the market as we believed the product met the criteria listed under Section 126D (3)(a) of the Act relating to the sale of undesirable liquor products.

The Bacchus Shot Bucket contains 28 individual 30ml shots in seven flavours including “Cowboy Espresso Shot”, “Pancake”, “QF”, “Chocolate Banana Split”, “Cowboy Shot”, “Cowgirl Shot” and “Chocolate Eclair”. In our request, we noted that we believed the packaging was likely to have special appeal to juveniles (due to the clear novelty value of the “party bucket”; the bright colours that closely resemble confectionery; the flavours and flavour names; the sweet, milky liqueurs which mask the taste of alcohol), and concerns regarding the product design and packaging (ready to drink shots facilitate the rapid consumption of alcohol; a single package contains a significant quantity of shots; shots are likely to be consumed alongside other alcohol products; shots are commonly used in drinking games)

On 29 June 2012, we received a response from the Minister for Racing and Gaming which noted:

“As a result of the consultation undertaken, I am not satisfied that there is sufficient evidence to suggest that the Bacchus Shot Bucket is an undesirable liquor product and, at this point in time, I have decided to not exercise my discretion to make such a declaration.”

It is concerning that it took five months to reach a decision and that the Bacchus Shot Bucket, which we consider to be a cynical and grossly irresponsible attempt to encourage alcohol consumption by young people, was not deemed to be an undesirable liquor product.

The Act requires that the Minister consult with the liquor industry – yet as the party requesting removal of the product, we were not provided with an opportunity to comment on the information provided by the industry representatives. There is no rationale for requiring consultation with the industry.

Recommendation

Reasonable steps should be taken to prevent undesirable liquor products from entering the WA market. Decisions regarding the sale of undesirable liquor products should be made on the basis of reasonable evidence without the requirement to consult with industry. Timeliness in decision making should be a primary consideration.

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Energy drinks and alcohol

Caffeinated, high-energy drinks are now widely available and are often targeted at the youth market. Researchers have identified a growing problem in Australia with energy drink consumption and toxicity, particularly among adolescents.¹⁰⁵

Further concerns have been raised regarding the consumption of alcohol with energy drinks. In addition to the established practice of mixing energy drinks with alcohol for on-premise consumption, packaged alcoholic energy drinks are widely available. Concerns about alcoholic energy drinks relate to the potential for^{106, 107}:

- Increased alcohol consumption – energy drinks may mask the feeling of intoxication, encouraging people to drink more than they otherwise would;
- Increased potential for injury and risk-taking behaviours – impaired judgement associated with intoxication at the same time as increased alertness can increase the potential for risk-taking behaviours such as violence and drink-driving;
- Physiological effects of dehydration (both alcohol and caffeine have diuretic effects) and of combining a stimulant (caffeine) and a depressant (alcohol), such as increased heart rate or palpitations.

Alcoholic energy drinks are popular with young people.¹⁰⁸ Research with an Australian sample supports international research findings that “young people see AEDs [alcoholic energy drinks] as facilitating rapid intoxication while maintaining or increasing energy levels”.¹⁰⁸ In response to concerns about alcoholic energy drinks, researchers have suggested that governments place limits on the alcohol content of packaged alcoholic energy drinks and/or impose a minimum price, and that those concerned with reducing alcohol-related harm among young people advocate for restrictions, or a ban, on this product category.¹⁰⁸

Research findings have suggested that alcoholic energy drinks may meet the criteria listed in the Act regarding undesirable liquor products; alcoholic energy drinks appear to have special appeal to minors and young people identify them as similar to soft drinks.¹⁰⁸

It would be difficult to argue that young people are adequately informed about the potential harms from consuming significant quantities of energy drinks either alone or in combination with alcohol.

Recommendation

Impose limits on the alcohol content of alcoholic energy drinks and restrictions on the availability of pre-mixed alcohol and energy drinks. Set conditions on on-premise liquor licences restricting the mixing of alcohol and energy drinks.

Continue collection of wholesale sales data to be used to monitor alcohol indicators and in policy planning and evaluation

It is essential that the collection of wholesale sales data in WA is maintained, and that action is taken to improve the collection and use of the data.

Robust measures of alcohol consumption are essential for the development of effective evidence-based policy responses to alcohol-related harm. Alcohol sales data are considered to be the best indicator of

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alcohol consumption at a population level as they are not susceptible to the errors inherent in self-report surveys,¹⁰⁹ and can be used to identify patterns of consumption of different beverage types.¹¹⁰

Alcohol sales data are important for monitoring trends in per capita alcohol use,⁵ studying relationships between changes in per capita consumption and population health outcomes, providing a benchmark to assess the reliability of survey estimates of consumption¹¹¹ and evaluating interventions to reduce alcohol-related harm.⁴¹ Alcohol sales data has been used to evaluate alcohol policy changes within WA and at the national level.^{97, 112}

The collection of local-level sales data in WA could be improved in a range of ways⁵:

- collating separate records for pre-mixed and straight spirits (at present, alcohol sales data records combine them as 'spirits')
- collecting data specific to cider and cask wine
- collecting alcohol sales data quarterly, as occurs in the Northern Territory, rather than the current practice of annual data collection.

These improvements would enable more detailed analysis of the data, including of potentially high risk products or those products that have increased in popularity in recent years.

Local-level alcohol sales data should be made available to genuine independent researchers and in policy planning to improve the evidence base for alcohol policy, the evaluation of policy initiatives and the monitoring of alcohol indicators in WA. Members of the alcohol and related industries should not be given access to alcohol sales data.

Other jurisdictions are moving towards the collection of alcohol sales data, with support from the National Alcohol Sales Data Project and the active encouragement of the Australian National Preventive Health Agency (ANPHA).¹¹³ As such, it would be completely inappropriate for WA to move away from this important practice.

Recommendation

Continue collection of alcohol sales data in WA and make it available to genuine independent researchers and in policy planning for the purpose of policy development and evaluating interventions. Improve the collection of alcohol sales data in WA by collating separate records for pre-mixed and straight spirits, collecting data specific to cider and cask wine, and collecting alcohol sales data quarterly.

Preventing harm from alcohol: Common myths

Discussions regarding the Australian drinking culture and approaches to preventing harm from alcohol frequently feature some arguments that are based in myth rather than evidence. These myths are most commonly supported by those with vested interests in minimising regulation that would reduce alcohol sales and consumption.

Below we address some of the common myths relevant to the review of how liquor is made available in WA. It is important that our liquor laws are built on a foundation of strong evidence, rather than myth. Further detail relevant to these myths is provided within the submission.

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We should move towards a more European style drinking culture

There is a commonly held myth that in European countries such as France, Italy and Spain, alcohol is widely available and children are introduced to alcohol at a young age which helps them learn to drink responsibly. The myth suggests that these countries do not experience the 'binge-drinking' and other problems that Australia is experiencing. This myth is often used to support suggestions that Australian liquor laws should be relaxed and parents should introduce their children to alcohol early.

In reality, the many differences between Australia and these European countries mean that Australia cannot be directly compared with such different cultures. Traditionally in these European countries, drunkenness is not accepted, alcohol is generally consumed with a meal, what they drink is different, and the night time economy is much less alcohol-focused than it is in Australia (i.e. restaurants and shops are open late).

Statistics regarding alcohol-related harms do not support the suggestion that many European countries experience lower rates of harm from alcohol, with some European countries experiencing much higher rates of alcohol-caused chronic diseases and road crashes. For example, the World Health Organization estimates Australia's age standardised death rate for liver cirrhosis as 7.9 for males and 2.6 for females per 100,000 population – the rates in Italy and Spain are over 2 times that of Australia, France is 2.5 times and Germany is over 3 times Australia's rate.¹¹⁴ The World Health Organization estimates Australia's age standardised death rate for road traffic accidents as 14.2 for males per 100,000 population – the rate in France is 16.7, Spain is 19.8 and Italy is 22.0 males per 100,000 population.¹¹⁴

Further, 'Le binge' drinking is now recognised as an increasing problem in France, with particular concerns about the increase in drinking among young people.¹¹⁵

As Professor Sir Ian Gilmore points out, it is easy to make claims that we should move towards a "Continental, wine-sipping cafe culture" but the best advice is "Don't go down the path of deregulating and treating alcohol as a normal commodity".⁸³

Alcohol-related harm is a minority problem and interventions should only target 'problem drinkers'

Drinking at risky levels is not a minority problem in WA; rather, it is a whole-of-population issue which requires a comprehensive suite of population level approaches to effectively prevent harm.

While the heaviest drinkers have a higher risk of a range of alcohol-related harms, this group is not responsible for the greater part of the burden of harms related to alcohol use.^{2, 36-38} Rather, the majority of the population – drinkers who occasionally drink heavily but whose overall volume of drinking is low or moderate – are responsible for the majority of harm, particularly harms related to intoxication, because there are so many more of them. This is commonly referred to as the 'prevention paradox'. Reducing alcohol consumption (which would be expected to reduce alcohol-related harms) in the whole population would therefore have a much greater impact on the overall burden of alcohol-related harms than if only the heaviest drinkers reduced their alcohol consumption.

Population approaches to preventing harm from alcohol, including through legislation, are cost-effective³⁹ and essential if WA is to prevent the burden of alcohol-related harms on the community, health services and law enforcement.

The focus should be solely on individual responsibility

Preventing harm from alcohol is everyone's business. Of course, there are important roles for health organisations, the community, parents and individuals, but these do not detract from the roles of government in regard to alcohol, which include regulating how alcohol is sold and marketed, and public education about drinking guidelines and alcohol-related harms.

The environment in which individuals operate, the prevailing drinking culture and the way alcohol is made available need to support low risk alcohol use. It is not reasonable to maintain a culture of drinking to get drunk by saturating the environment with pro-drinking messages, providing easy access to large quantities of low cost alcohol and expect individuals to shoulder all responsibility for the resulting drinking patterns and harms.

The public health and law enforcement burdens caused by alcohol are far too great to leave to individual responsibility.

Trends in alcohol consumption in WA are stable or decreasing

Per capita consumption (PCC) of alcohol in Australia in 2008-09 was at one of its highest points since 1991-92, largely due to the increase in the alcohol content and market share of wine.³ As previous analyses of PCC of alcohol had not accounted for these factors, official totals underestimated consumption and led to the mistaken impression that alcohol consumption had been stable over the past 20 years.³ In the recent years of financial pressures, there has been a slight decline in PCC of alcohol, while changing patterns of alcohol use are a major cause for concern.⁴ Data over longer periods are required to identify significant trends.

Per capita consumption of alcohol in WA (11.21 litres) is higher than the national average (10.08 litres).⁵ Some regions within WA have extremely high levels of alcohol use, twice as high as the WA average.⁵ More West Australians drink at levels that put them at risk of harm from a single drinking occasion or harm over their lifetime than the Australian average.⁷

While fewer WA young people are using alcohol, those who do drink are drinking more.⁹ According to the 2011 Australian School Student Alcohol and Drug Survey, of those WA students aged 12-17 years who drank in the last week, more than one-third (36.2%) drank at risky levels for single occasion alcohol-related harm.⁹

Levels of alcohol consumption and indicators of alcohol-related harms in WA and Australia all give cause for concern and highlight the need for effective action to prevent harm from alcohol.

Small bars are lower risk premises and warrant a different approach

There is much commentary about small bars being the solution, rather than part of the problem. While an individual small bar may well present a lower risk in terms of alcohol-related harm than a large capacity hotel or nightclub, the actual level of risk will depend on how and within what context the small bar operates.

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The cumulative impact of multiple small bars or a combination of small bars and other types of licensed premises in an area must be considered. The reality is that a small bar does not operate in isolation, and may contribute to the clustering of liquor outlets or further contribute to the availability of alcohol in an area. As with other types of licences, there is also the potential for problems once people leave the small bar, for example, disorder and reduced amenity.

Small bars have not yet been the focus of policy-relevant research. It is too early to know the real impact of small bars on alcohol-related harms in WA. However, there is sufficient evidence from other jurisdictions to warrant a cautious approach towards small bars and as such, to maintain the existing approach to requirements for applying for a small bar licence, maximum patron numbers and trading hours. Policy approaches to small bars should not support a proliferation of small bar licences. Further research is needed to develop a comprehensive understanding of the impact of small bars on alcohol use in Australia.

Policies on small bars are not the answer to alcohol problems.

Approaches to preventing harm from alcohol will negatively impact the liquor and related industries

There is potential for approaches advocated by health groups to impact positively on the liquor and related industries. For example, effective monitoring and enforcement of the Act would have benefits for the liquor and related industries, as well as the community.²⁴ When implemented as part of a comprehensive approach to prevent harm from alcohol, liquor restrictions can support increased tourism by attracting visitors through improved community safety and public amenity. Public safety and order is an incentive to tourism.

We accept that many licensees and groups in related industries conduct their business in a responsible manner, nonetheless this is not universal and the ability to sell alcohol is a privilege, not a right.

Broadly, reducing harm from alcohol will require that people drink less and inevitably that will impact on alcohol sales. However, the liquor and related industries have profited from harmful alcohol use for too long. It is not their right to profit from risky drinking that costs the community greatly.

We hear frequent rhetoric from representatives within the liquor industry that they do not want children and adolescents drinking and want a healthier drinking culture. Within a comprehensive approach to addressing alcohol-related harm, the evidence-based approaches outlined in our submission provide a clear plan of action to achieve these aims.

PART THREE: RECOMMENDATIONS

Overall approach of the Act

1. Preventing and minimising harm and ill-health due to the use of liquor to be the highest priority of the Liquor Control Act.
2. Primary object (c) should be removed or demoted to a secondary object.
3. Ensure the potential impact on children and young people and other 'at risk' groups is a central consideration in liquor licensing decision making.

Access to alcohol

4. The Act adopt a pro-active, evidence-based approach to preventing harm from alcohol by acknowledging the strong and consistent evidence for reducing the availability of alcohol and focus amendments to the Act on reducing the availability of alcohol, not increasing availability.
5. The McCusker Centre cautions against changes to the Act that would increase the overall physical or economic availability of alcohol, including opening up new retail opportunities for alcohol in supermarkets or other premises currently prohibited under the Act.
6. Careful consideration be given to the potential for any proposed changes to the Act to lead to the increased availability of alcohol, and action be taken to prevent this where the potential is identified.
7. Amend the Act to empower liquor licensing decision makers to consider outlet density, the cumulative impact of licensed premises and the clustering of premises.
8. Amend the Act to prohibit the supply of alcohol to minors without the permission of parents or guardians in all settings (secondary supply).
9. Support secondary supply legislation with appropriate penalties and a comprehensive public education campaign about the laws and the importance of delaying young people's use of alcohol.

Community access and participation

10. Maintain the roles of the Executive Director, Public Health and WA Police to intervene in proceedings before the licensing authority.
11. Ensure community interests are appropriately represented in liquor licensing processes by comprehensively addressing the factors preventing community access and participation.
12. Strong community participation, with regard for vulnerable members of the community and those with limited resources, should be a feature of the operation of the Act.

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13. Maintain the Public Interest Assessment requirement for applications for all liquor licence categories.
14. Ensure appropriate community consultation procedures and public interest assessment requirements for changes to licensed premises that have the potential to increase the risks associated with the premise.

Monitoring and enforcement

15. Ensure the WA Police and DRGL are adequately resourced and have appropriate powers to effectively monitor and enforce all provisions of the Act. Monitoring and enforcement resources should be increased in line with the provision of new liquor licences.
16. Amend the Act to enable police and volunteers under 18 years to undertake controlled purchase operations for alcohol, and to provide them with the appropriate protection from prosecution.
17. Ensure police are properly equipped to identify a patron that is drunk.
18. Amend the Act to remove the requirement to prove that a licensee “permits” drunkenness to take place on the licensed premise in order for the licensee to commit an offence.
19. Ensure appropriate and timely monetary, or other, penalties for breaching the Act.
20. Maintain the existing Act provisions which provide for the implementation of liquor restrictions to address alcohol-related harm in an area.
21. Where required, the implementation of the existing Act provisions regarding liquor restrictions should be strengthened, for example, through the introduction of appropriate controls to restrict the transport of alcohol to and between areas with liquor restrictions.
22. Alcohol advertising and promotion should be identified as an area of particular concern. Introduce measures to prevent young people’s exposure to all forms of alcohol promotion, reduce the volume of alcohol promotion in the community and ensure alcohol promotions are socially responsible.
23. Maintain the structure and operation of the Liquor Commission.

Licence categories

24. Require applicants to substantiate any claims of benefits to tourism with appropriate evidence.
25. Conduct a comprehensive evaluation of direct sales licences (or the equivalent) in operation in South Australia and Victoria, which should include community consultation, evaluation of the impact of direct sales licences on the availability and access to alcohol, and a review of the effectiveness of monitoring and enforcement procedures.

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26. If a direct sales licence category is considered appropriate on the basis of the comprehensive evaluation of equivalent licences in other states, initial approvals should be on the basis of a very limited number of licences in a trial with comprehensive independent evaluation. In determining an appropriate limit, the highest regard should be given to minimising harm and monitoring and enforcement capacity. The licence type should be defined to enable effective monitoring and enforcement and constraints on the promotion of alcohol should be a standing condition of licences.
27. Maintain the existing application requirements for a small bar licence. Policy approaches to small bars should not support a proliferation of small bar licences.
28. Independent research is needed to develop a comprehensive understanding of the impact of small bars on alcohol use in Australia.

Alcohol products

29. Reasonable steps should be taken to prevent undesirable liquor products from entering the WA market.
30. Decisions regarding the sale of undesirable liquor products should be made on the basis of reasonable evidence without the requirement to consult with industry. Timeliness in decision making should be a primary consideration.
31. Impose limits on the alcohol content of alcoholic energy drinks and restrictions on the availability of pre-mixed alcohol and energy drinks. Set conditions on on-premise liquor licences restricting the mixing of alcohol and energy drinks.
32. Continue collection of alcohol sales data in WA and make it available to genuine independent researchers and in policy planning for the purpose of policy development and evaluating interventions. Improve the collection of alcohol sales data in WA by collating separate records for pre-mixed and straight spirits, collecting data specific to cider and cask wine and collecting alcohol sales data quarterly.

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Appendices

Appendix A.



Example One. BWS and Woolworths Liquor advertisement: Three Berri Estates five litre wine casks for \$30.



Example Two. Liquorland advertisement: Two Stanley four litre wine casks for \$18.