

Legislative Council Hansard – 10 September 2015

ALCOHOLIC BEVERAGES ADVERTISING PROHIBITION BILL 2015

Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Second Reading

Reverend the Hon. FRED NILE [9.51 a.m.]: I move:

That this bill be now read a second time.

Alcohol shortens lives in many ways. It causes cardiovascular disease, cancers, diabetes, nutrition-related conditions, obesity, risks to unborn babies, liver diseases, mental health conditions, self-harm, long-term cognitive impairment, alcohol dependence, injuries and fatalities from road crashes, violence and domestic violence, even death. As I was preparing for my speech today I noted a small local newspaper contained a whole supplement from Bayfields Liquor Superstore advertising alcoholic products. In the same suburban newspaper, in addition to the supplement, there were three full pages of advertisements for alcohol. Advertising plays a major part in promoting alcohol. Members might be surprised to know that if alcohol were invented today it would not be legalised. Professor David Nutt, director of the Neuropsychopharmacological Unit in the Division of Brain Sciences at the Imperial College London says that if we treated alcohol in the same way that we treat food colourants and conducted proper toxicology testing, the safe amount of alcohol to drink in a year would be one glass. He said, "This shows the magnitude of the blinkers we put on ourselves."

In the recent New South Wales budget, the New South Wales Government announced an allocation of \$2.3 million over four years to create a centre at the Children's Hospital at Westmead for the prevention of harm to children and adolescents from drugs and alcohol, yet we continue to allow the alcohol industry to have a free run at fuelling the problems. It is counterintuitive that we invest in actions to promote our wellbeing and healthy lifestyles to reduce the burden of disease but continue to allow the perpetrating alcohol industry to flourish through a massive advertising campaign. A paper from the World Health Organization entitled "European action plan to reduce the harmful use of alcohol 2012-2020" states, "Standing back, it can be said that alcohol policies still do not reflect the gravity of the health, social and economic harm resulting from the harmful use of alcohol; they fail to be properly integrated within overall health, social and development policies." Disturbingly, the World Health Organization also states:

The extent and breadth of commercial communications on alcohol and their impact, particularly on young people's drinking, should not be underestimated.

The negative health and social consequences of alcohol can and must be reduced. This counterintuitive madness can be reversed. I call on members to sober up, show some Dutch courage and support the Alcohol Beverages Advertising Prohibition Bill. The 2013 report of the Standing Committee on Social Issues entitled "Strategies to reduce alcohol abuse among young people in New South Wales", states:

The Australian Association of National Advertisers defines advertising in its 2012 Code of Ethics as:

any material which is published or broadcast using any medium or any activity which is undertaken by, or on behalf of an advertiser or marketer, and

§ over which the advertiser or marketer has a reasonable degree of control, and

§ that draws the attention of the public in a manner calculated to promote or oppose directly or indirectly a product, service, person, organisation or line of conduct.

It further states:

Professor Sandra Jones, Director, Centre for Health Initiatives, University of Wollongong, argued that it is important to take a broad view when defining advertising in order to acknowledge all media platforms used to advertise:

I think it is really important that we define advertising in the way that is interpreted by academics and by lay people, and even defined by the advertising industry.

She goes on to say:

The reason I think that is really important is it means that while advertising includes broadcast and print media, it also includes things like online advertising, social networking, point of sale promotions, sponsorship of sports and events packaging, and design of alcohol products, and things like being able to go in and buy Easter eggs and there is a Bacardi and bourbon brand of Easter eggs next to the Bratz ones.

Indeed, there are a number of media platforms now currently available to promote and advertise alcohol. In the past, alcohol advertising and promotion predominantly used traditional media—television, radio and print.

Alcohol is increasingly being advertised and promoted in new media and through a diverse range of strategies such as online games and advertisement gaming, product placement and cinema advertising. As at 30 April 2012, alcohol brands were among the highest-engaging industries on Facebook—second only to automobiles. According to the *International Journal of Sports Marketing and Sponsorship*, in April 2010 the sports sponsorship market in Australia was estimated to be worth \$600 million per year, with an average sponsor spend of \$3.3 million in 2007. Indeed, it is estimated that each year \$50 million comes from alcohol companies.

The Alcohol Beverages Advertising Code [ABAC] and the complaints management scheme is a self-regulating advertising scheme of the Australian alcoholic beverages industry. This code is operated by a management committee that comprises members of the alcohol industry, together with a government representative. There is no representation from the medical or public health sectors. The advertising regulator is run by those who make money by encouraging people to drink more, and more often. It is a voluntary scheme; it is not underpinned by legislation. Accordingly, regulators have no power to issue penalties for infringement notices. That is why this bill is urgent. The advertising code states that advertisements for alcohol beverages must:

- (c) not suggest that the consumption or presence of alcohol beverages may create or contribute to a significant change in mood or environment and, accordingly—
 - (i) must not depict the consumption or presence of alcohol beverages as a cause of or contributing to the achievement of personal, business, social, sporting, sexual or other success;

It is not necessary to expound on the plethora of alcohol advertising that assures us of the contrary. Such advertising suggests that alcohol will cheer us up, reduce our anxieties, help us have a great time and contribute to our romantic success. So the alcohol companies actually breach their own self-regulation. To further highlight the inadequacies of the current system, ABAC does not oversee sponsorships. It is also important to note that sponsorships of sporting events shown on television allow alcohol companies to avoid the usual restrictions on daytime advertising of alcohol products. In June 2015, when handing down a determination, the code's adjudication panel stated:

... it is accurate to describe the regime applying to alcohol marketing as quasi-regulation.

The Commission for Children and Young People commented that self-regulation is "largely ineffective in preventing marketing which impacts on children and young people". The commission also highlighted the discrepancy between alcohol advertising on free-to-air and subscription television. For instance, the Commercial Television Industry Code of Practice prohibits alcohol advertisements on free-to-air television before 8.30 p.m.; in contrast, there is no time-of-day restriction on alcohol advertising on subscription television. The commission noted that in 2013, 32 per cent of 13- to 17-year-olds had access to and spent more time watching pay television than free-to-air television, and there are no restrictions on the internet so those children are exposed to alcohol advertising.

Before anyone says that we do not need a ban; we just need strong regulation—and who of us would ever advocate for more red tape—I will list the advertising codes that alcohol advertisements must comply with in addition to the industry code: the Australian Association of National Advertisers code of ethics and the code for advertising and marketing communications to children; the code of practice administered by the Advertising Standards Board; the Commercial Television Industry code of practice; the Australian Subscription Television and Radio Association code of practice; the Commercial Radio code of practice; the Outdoor Media Association code of ethics; the Publishers' Advertising Advisory Bureau's guiding principles for alcohol beverage advertising; and the NSW Liquor Act 2007. It is obvious that those codes are not making any valuable impact on our society, children or young people.

Why were two alcohol-related targets set in the NSW 2021 State plan: risky drinking and alcohol-related assaults? We know what alcohol abuse is doing to us, yet we tinker around the edges. We do not need more regulation or another advertising code. Let us heed the call of the health experts and respond to the social impact studies now. It is important to note the media dependence on alcohol advertising revenue. When has government policy ever been dictated to by the media? I recall some very unhappy representatives of the *Sydney Morning Herald* contacting me when we succeeded with the bill prohibiting cigarette advertising. They said, "We have just lost \$200 million in advertising per year because of your bill." I have not received much good publicity in the *Sydney Morning Herald* since.

New South Wales government agencies do not collect information on the total cost of alcohol abuse, but the annual cost of alcohol abuse to New South Wales government services in 2010 was estimated to be in excess of \$1.029 billion. Of that amount, \$474.2 million was spent on the criminal justice system, including \$372 million on policing; \$263.1 million on community services; \$87.3 million on the health system; and \$204.2 million on lost productivity. According to the 2013 NSW Auditor General's report "Cost of alcohol abuse to the NSW Government", the cost is equivalent to \$416 imposed on every household in New South Wales. The largest cost is to the NSW Police Force, followed by Family and Community Services for out-of-home care and child protection services, and NSW Health for alcohol-attributable hospitalisations. In 2013 the NSW Auditor General also estimated the total social cost in New South Wales to be \$3.87 billion per year, or \$1,565 per household.

The personal costs of alcohol abuse are just too great. In fact, some people pay a price to which no dollar figure can be attributed. We must take a stand against the insidiousness of alcohol abuse and do all we can to combat unabated alcohol abuse. The debate on this has raged for years; it is well past the time for us to act. A case study in April 2010 of developments in sport in Australia in the *International Journal of Sports Marketing and Sponsorship* wrote:

There is a large body of evidence to demonstrate that exposure to alcohol advertising influences alcohol expectancies, drinking intentions, and perceptions of drinking as a normative behaviour. Further, three longitudinal studies from the United States have confirmed the direct association between exposure to alcohol advertising and subsequent drinking. In particular, these studies have shown that those who viewed more alcohol ads in the seventh grade were more likely to drink in the eighth grade and to drink greater quantities in ninth grade and that each additional dollar per capita spent on alcohol advertising was associated with a 4% increase in the amount of alcohol drunk by young people.

The advertising is working for the alcohol industry; not for youth. The 2006 report "Effects of Alcohol Advertising Exposure on Drinking Among Youth" found that, for those aged 21 years or less, each additional alcohol advertisement seen increased the number of drinks consumed in the previous month by 1 per cent. It was also found that each additional dollar spent per capita on alcohol advertising increased the number of drinks by 3 per cent. In addition, youth in markets with high advertising rates demonstrated increases in drinking levels into their late twenties, while for drinkers in markets with fewer advertisements drinking stabilises in their early twenties. The NSW Parliamentary Research Service briefing paper "Key issues for the 56th Parliament" states:

Alcohol is another factor in youth suicide. A NSW Legislative Council Committee inquiry into youth alcohol abuse reported that, between 1993 and 2001, there were over 500,000 hospitalisations caused by risky and high-risk drinking in Australia, with 20,374 alcohol-related hospitalisations involving attempted suicide.

The inquiry also found that alcohol is associated with 'the three leading causes of death among young people: unintentional injuries, homicide and suicide'.

For years the Australian Medical Association [AMA] has called for a ban on alcohol advertising and sponsorship—sadly, with not much effect. The Australian Institute of Health and Welfare's national drug strategy found in a household survey conducted in 2010 that 38.4 per cent of 12- to 17-year-olds recently had consumed alcohol and that almost two-thirds of males aged 18 to 19 had placed themselves at risk of an alcohol-related injury at least once a month. Why are we so unconcerned about those figures? We must heed those warnings and act on banning alcohol advertising and sponsorship. In 2011 the President of the AMA, Dr Steve Hambleton, said:

One of the biggest contributors to teenage drinking is the marketing tactics used by the alcohol industry to promote alcohol products as glamorous and exciting, and this makes them attractive to young people. These marketing tactics put the health and lives of young Australians at greater risk. The younger that people start drinking alcohol, the more likely they are to become problematic drinkers later in life.

A 2011 study found that "the ubiquity of mobile phones gives marketers unprecedented ability to follow young people through their daily lives, delivering highly enticing marketing offers that are designed to trigger impulsive behaviours and linking point-of-influence techniques to point-of-purchase opportunities". Internet marketers are savvy and, as legislators, we must find a way to stay ahead of their unscrupulous targeting of our young people. We know that our youth are a vulnerable group, and the alcohol industry knows that too. It has a term for underage drinkers—future drinkers. But there is an economic hangover associated with all this merriment. Earlier this year the World Health Organization warned that "the harmful use of alcohol is a causal factor in more than 200 disease and injury conditions. Beyond health consequences, the harmful use of alcohol brings significant social and economic losses to individuals and society at large". The briefing paper "Key issues for the 56th Parliament" states:

The nexus between alcohol and domestic violence is strong and enduring, with AIC research identifying excessive alcohol consumption as an important risk factor for domestic violence. According to BOCSAR, 41% of NSW domestic assaults in 2010 were found by police to be alcohol-related, an increase from 36% in 2004. There are also links between alcohol abuse and child abuse, maltreatment and neglect.

The New South Wales Intoxication Guidelines address the need to minimise harm associated with the misuse and abuse of liquor and cite a non-exhaustive list of noticeable signs of intoxication categorised as speech, balance, coordination and behaviour. The guidelines advise that penalties for supplying alcohol to an intoxicated person can be very expensive. The licensee or staff can be fined up to \$11,000, and other patrons who supply alcohol to an intoxicated person face a maximum fine of \$1,100. Driving a vehicle at 84 kilometres an hour in a school zone attracts a lesser fine than buying a drunk mate another beer.

Some parts of our law acknowledge the seriousness of alcohol abuse, and we continue to introduce new ways to respond to the problem but without tackling the problem at its source. When are we going to take alcohol abuse seriously? The interlock program was introduced in February this year. It requires repeat drink-driving offenders to connect an electronic breath-testing kit to the ignition of their vehicle, which prevents the vehicle from starting if alcohol is detected. More than 80 per cent of drivers who were surveyed approved of the alcohol interlock program for repeat and high-range drink-driving offenders. They felt that it was a strong but fair penalty. I congratulate the Minister and the Government on the introduction of that program. It shows that we are aware of the harmfulness of alcohol, but we do not seem keen to touch the advertising industry. The New South Wales liquor promotion guidelines state:

It is in the interests of venues to ensure that all promotions are conducted with harm-minimisation measures in place to prevent unacceptable outcomes.

The guidelines go on to caution against promotions that "may still be considered undesirable as they are not in the public interest". Generally, if something is not in the public interest, it goes against principles of fairness, equity, decency or lawfulness in society. Public interest is linked to the wellbeing of the community or the risk of detriment to the community at large. Alcohol abuse harms the community. Alcohol advertising and sponsorships go against general principles of fairness, equity, decency and lawfulness in society. Sadly, since before the time of Sydney's Rum Hospital, when the builders of the hospital were paid not in cash but by being given a monopoly to import rum, drinking has been part of modern Australian culture. But just as it was in 1810, more than 200 years ago, in modern times advertising alcohol is not necessary for the alcohol industry to flourish. Amy Bainbridge, who is a journalist for the ABC program the *Drum*, summarised the Australian drinking culture well when she wrote:

Any drinker who's ever tried to have a stint off the grog knows how hard it can be. Not necessarily for you, but for your peers. "Whaddya mean you're not drinking," came the accusation, not the question, at an engagement party I went to last year. Within five minutes of arriving, and despite saying I was driving and having "a dry spell", a glass of wine was thrust in front of me at the dinner table. I'm not sure what it is about Australia, but for some reason it's offensive not to drink. I've had many stints off from alcohol, but always seem to fall back into the lapse of social drinking. Part of it is because I enjoy the taste, but the other part, and I'm ashamed to say it, is the feeling of being a bit anti-social if you don't. It's easier to tell a fib and say you're on antibiotics than fess up to wanting to feel healthier. I know women who've hidden the fact they're pregnant by hiding the label of non-alcoholic wine. Here, it's so unusual not to drink, that in many social situations you need to stage a charade in order to fit in.

When we have support websites that ask questions like, "Feeling a bit lost and alone and running out of options? Maybe you're even thinking there is no way out?" surely investing in programs to combat the harmful effects of alcohol, while at the same time turning a blind eye to the proliferation of an "alcohol equals fun" message, is the very definition of stupidity. It is, quite simply, a no-brainer. Regardless, we have heard it all before. The same arguments were used when this House debated a ban on tobacco advertising. In 2010 the *International Journal of Sports Marketing and Sponsorship* wrote:

Tobacco sponsorship of sport was subject to the same argument as alcohol sponsorship, that sporting groups were economically dependent on this sponsorship. However, in the 1990s several Australian states—

which included New South Wales—

introduced legislation, and established health promotion foundations, to replace tobacco sponsorships with public health sponsorships. These foundations used the funds raised by a legislated 5% increase in tobacco taxation to sponsor sport, racing and arts organisations that had previously received tobacco sponsorship.

There is no need for the liquor industry to sponsor sport. The Greens Senator Sarah Hanson-Young was adamant about banning alcohol advertising in 2007. She stated:

The ban on tobacco advertising has been highly effective. There is no reason to doubt a ban on alcohol advertising would be any less effective. Australia long ago banned tobacco advertising and sponsorship of sporting and cultural events. The Greens will apply the same restrictions to alcohol advertising.

The Christian Democratic Party looks forward to The Greens support for this legislation. A report entitled "Alcohol's burden of disease in Australia" found in 2010 that 5,554 deaths and 157,132 hospitalisations were caused by alcohol, with the number of deaths increasing by 62 per cent since the study was last undertaken a decade ago. What else kills 15 Australians and hospitalises a further 430 each and every day? We are not calling for a ban on alcohol. We are calling for a phasing-out of alcohol advertising and sponsorship over a five-year period. For the first time, this year's alcohol poll, which was conducted by the Foundation for Alcohol Research and Education, asked Australians if they had seen an alcohol advertisement in the past 12 months and if they had found those alcohol advertisements to be inappropriate.

The majority of Australians, 73 per cent, indicated that they had seen alcohol advertising in the past year and more than two-thirds of those people, 69 per cent, believed that the advertisements they saw were inappropriate. The main concerns about the advertisements were that they appealed to young people under 18 years, 45 per cent; that they promoted drinking as being associated with success and achievement, 44 per cent; that they encouraged the rapid or excessive consumption of alcohol, 26 per cent; that they encouraged irresponsible or offensive behaviour, 24 per cent; or that they were sexist, 18 per cent.

According to a poll by the Foundation of Alcohol Research and Education, 63 per cent of Australians support placing a ban on alcohol advertising on television before 8.30 p.m. Australians were also asked whether they support alcohol advertising being banned on public property. Almost two-thirds of Australians, 65 per cent, believe that alcohol advertising should be banned on public transport, 60 per cent believe it should be banned on bus, tram and train stops, and 50 per cent believe it should be banned from sports grounds. The "Regulation of alcohol advertising: Policy options for Australia" 2013 report, completed by the University of Wollongong, surmised:

... our review demonstrates firstly that considerable research suggests alcohol advertising influences drinking behaviours, and secondly that current systems based on co-regulation and voluntary regulations (as is the case in Australia) are ineffective.

It is time to pass this bill, which will save lives. The Government's role is to protect its people. If it were anything but alcohol causing us such issues and cost, it would have been prohibited a long time ago. We are not asking for the criminalisation of alcohol; we are asking for a prohibition on advertising of alcoholic beverages. Let us emancipate ourselves from the tyranny of alcohol. If adopted, implemented and enforced, this intervention can protect health and save lives. Surely the Government is not so influenced by the spin from advertising and alcohol companies that profit from making us sick. I refer again to the findings of the Standing Committee on Social Issues regarding restricting alcohol advertising. In particular, Professor Jones testified:

I think in terms of what is going to work, what we can do at a policy level, it is about siding with the things we have some level of control over, like alcohol sponsorship of sport, alcohol advertising, the promotion of alcohol, the price of alcohol, the availability of alcohol, because those other things require changing social norms in order to change all those other positive influences on young people. You will not be able to change those norms in the environment that we currently have; it needs taking some really brave steps and saying, "Let's reduce some of this exposure", because then, as a parent, I have a choice. As a parent, if I do not want my kids to see alcohol portrayed as a really positive thing basically, I have to stop them watching television, I have to stop them walking down the street.

A number of inquiry participants, including the Commission for Children and Young People, called for a complete ban on alcohol advertising and promotion, referencing the banning of tobacco advertising as an example. Banning advertising and promotions has worked in relation to cigarettes and tobacco, and I believe it will work in relation to alcohol. I commend the bill to the House, which will prohibit advertising and other promotional activities aimed at assisting with the sale of alcoholic beverages.

Debated adjourned on motion by the Hon. Dr Peter Phelps and set down as an order of the day for a future day.