



LEGISLATIVE ASSEMBLY

SOCIAL POLICY COMMITTEE

PROVISION OF ALCOHOL TO MINORS: DISCUSSION PAPER

MAY 2013

Contents

List of proposed recommendations _____	ii
DISCUSSION OF PROPOSED REFORMS _____	1
INTRODUCTION _____	1
Current law _____	1
REQUIRING RESPONSIBLE SUPERVISION _____	2
Defining responsible supervision _____	4
SHOULD PARENTS AND AUTHORISED ADULTS BE ABLE TO SUPPLY ALCOHOL TO MINORS? _____	5
Removing parents’ ability to authorise supply _____	6
Defining the form of authorisation _____	7
STRONGER PENALTIES _____	9
Views on appropriate penalties _____	9
Other jurisdictions _____	10
Mandatory education _____	10
IMPROVING ENFORCEMENT _____	12
BETTER EDUCATION MEASURES _____	13
Current campaigns and education measures _____	13
Lack of community and parental awareness _____	14
Proposals for public awareness and education strategy _____	14
Education campaign undertaken in Tasmania _____	15

List of proposed recommendations

The purpose of this paper is to seek feedback from inquiry participants on proposals for reform that have been raised during the Inquiry into the provision of alcohol to minors. The Committee is seeking feedback from inquiry participants and interested stakeholders by 15 July 2013 in response to the proposed recommendations and questions below.

PROPOSED RECOMMENDATION 1 _____ 5

That the *Liquor Act 2007* be amended to provide that parents, guardians and responsible adults must supply alcohol to minors in a manner that is consistent with responsible supervision.

PROPOSED RECOMMENDATION 2 _____ 5

That the *Liquor Act 2007* be amended to specify factors to be considered in determining whether supply of alcohol to a minor by a parent or guardian is consistent with responsible supervision, including:

- the minor's age
- whether the adult is drunk
- whether the minor is drunk
- whether the minor is consuming the alcohol with food
- whether the adult is responsibly supervising the minor's consumption of the alcohol
- the quantity and type of alcohol, and the time period over which it is supplied.

PROPOSED RECOMMENDATION 2 - QUESTION _____ 5

Should there be a minimum age limit for the supply of alcohol to minors by parents and guardians? If so, what should the age limit be?

PROPOSED RECOMMENDATION 3 - QUESTION _____ 6

Should section 117(4) of the *Liquor Act 2007*, which enables parents and guardians to supply alcohol to minors, be removed or retained?

PROPOSED RECOMMENDATION 4 - QUESTION _____ 7

Should the defence against prosecution in section 117(5) of the *Liquor Act 2007*, which enables parents and guardians to authorise other adults to supply alcohol to their child, be removed or retained?

PROPOSED RECOMMENDATION 4 - QUESTION _____ 9

If it is retained, should authorisation for supplying alcohol to a minor be required to be in writing? How else could the current provisions be improved?

PROPOSED RECOMMENDATION 5 - QUESTION _____ 10

What is an appropriate penalty for supplying liquor to a minor other than on licensed premises? Are current penalties adequate or should they be increased?

PROPOSED RECOMMENDATION 6 _____ 11

That attendance at education workshops for adults who commit offences relating to the supply of alcohol to minors form part of the suite of penalties under the *Liquor Act 2007*.

PROPOSED RECOMMENDATION 6 - QUESTION _____ 11

Should there be provision for minors involved in secondary supply offences to attend education workshops?

PROPOSED RECOMMENDATION 6 - QUESTION _____ 11

Should the application of this penalty option be determined on a case by case basis, or should it be mandatory?

PROPOSED RECOMMENDATION 7 - QUESTION _____ 13

How could the enforcement of secondary supply laws be improved? Should the focus instead be on public education and preventing harmful underage drinking?

PROPOSED RECOMMENDATION 8 _____ 15

That any amendments to the *Liquor Act 2007* regarding supply of alcohol to minors be accompanied by a social marketing/public education campaign.

PROPOSED RECOMMENDATION 9 _____ 15

That the public education campaign have a dual focus – to clearly state what is permitted under the law, and to highlight the health risks of alcohol consumption by minors, based on National Health and Medical Research Council guidelines.

PROPOSED RECOMMENDATION 10 _____ 16

That, as part of a public education campaign, a website be developed to provide parents with clear, readily accessible information about their legal responsibilities in relation to supplying alcohol to minors. The website should also inform parents on how to talk to young people about the law and how to talk to other parents about the legal and health consequences of supplying alcohol to minors.

PROPOSED RECOMMENDATION 11 _____ 16

That information about the legal and health consequences of supplying alcohol to minors be provided to parents attending early childhood education/information sessions when their child is of pre-school age.

Contact details: Legislative Assembly Social Policy Committee
Parliament House, Macquarie Street, Sydney NSW 2000

Telephone: (02) 9230 3054

Email: socialpolicy@parliament.nsw.gov.au

URL: <http://www.parliament.nsw.gov.au/socialpolicy>

Discussion of proposed reforms

INTRODUCTION

1. This discussion paper has been prepared as part of the Legislative Assembly Social Policy Committee's Inquiry into the provision of alcohol to minors. The terms of reference for the inquiry require the Committee to consider issues including the appropriateness of current laws for the provision of alcohol to minors by parents, guardians and responsible adults; community understanding of these laws; and whether NSW can benefit from experiences in other jurisdictions.
2. The paper has been prepared to enable considered feedback from key inquiry participants and stakeholders on the possible reforms being considered by the Committee. Based on participants' feedback, the Committee will finalise recommendations for its report, to be tabled later this year.
3. Possible recommendations that may be made by the Committee are outlined. Questions have also arisen in relation to some of the proposed recommendations.
4. A number of inquiry participants argued that current laws on the supply of alcohol to minors by parents and guardians are not well understood and do not provide sufficient guidance to parents and the community. The Committee agrees that reform is required to clarify secondary supply laws and communicate them to the community. Evidence received by the Committee focussed on ways to amend and strengthen the *Liquor Act 2007*, such as:
 - requiring that alcohol be supplied only if there is responsible supervision of minors
 - preventing parents from authorising other adults to supply alcohol, or strictly defining the form that authorisation must take
 - stronger penalty provisions, including higher financial penalties, and mandatory education
 - improving enforcement
 - improving public awareness through an education campaign.

Current law

5. The *Liquor Act 2007* regulates the sale and supply of liquor in NSW. In terms of selling or supplying alcohol to minors, it is an offence to:
 - sell liquor to a minor
 - supply liquor to a minor on licensed premises

- supply liquor to a minor on premises other than licensed premises unless the person is the minor's parent or guardian - there is a defence against prosecution for a defendant who proves they were authorised to supply liquor to a minor by the minor's parent or guardian
- allow liquor to be sold or supplied to a minor on licensed premises - there is a defence against prosecution for licensees who take reasonable steps to prevent liquor being sold or supplied to a minor, and
- obtain liquor for a minor from licensed premises - there is a defence against prosecution for a defendant who proves they were authorised by the minor's parent or guardian to obtain liquor for the minor.¹

REQUIRING RESPONSIBLE SUPERVISION

6. Both Queensland and Tasmania have passed legislation which, many submitters argued, provides clearer and stricter guidance for parents and the community on the provision of alcohol to minors. The Committee considers that laws in these jurisdictions provide a possible model for NSW to follow.
7. Several inquiry participants supported the proposal to require responsible supervision as a condition of providing alcohol to minors. It was argued that this approach would provide clearer and stricter guidance to parents and the community, by outlining circumstances that are consistent with responsible supervision.
8. Under Queensland's *Liquor Act 1992*, an adult must not supply alcohol to a minor at a private place unless the adult is a responsible adult for the minor. A responsible adult for a minor must not supply alcohol to the minor at a private place unless the supply is consistent with the responsible supervision of the minor. Factors that are relevant in considering whether the supply is consistent with responsible supervision are:
 - (a) whether the adult is unduly intoxicated;
 - (b) whether the minor is unduly intoxicated;
 - (c) the age of the minor;
 - (d) whether the minor is consuming the liquor supplied with food;
 - (e) whether the adult is responsibly supervising the minor's consumption of the liquor supplied;
 - (f) the quantity of liquor supplied and the period over which it was supplied.²
9. Tasmania's *Police Offences Act 1935* prohibits the supply of alcohol to a youth at a private place unless the person is a "responsible adult for the youth". A

¹ *Liquor Act 2007* (NSW) s 117

² Responsible adults for a minor are: (a) a parent, step-parent or guardian of the minor; (b) an adult who has parental rights and responsibilities for the minor: *Liquor Act 1992* (Qld) ss 5, 156A

responsible adult for a youth must not supply them with liquor at a private place unless the supply is consistent with the responsible supervision of the youth. The following factors are relevant in determining responsible supervision:

- consideration being given to the age of the youth;
- the consumption of alcohol being supervised;
- consideration being given to the quantity, type and the time period over which alcohol is supplied; and
- food and non-alcoholic drinks being available when alcohol is being consumed.³

10. The Commissioner for Children and Young People commented that requiring responsible supervision has merit, as it provides guidance on community standards around the supply of alcohol to minors by taking account of factors such as the minor's age and the quantity of liquor supplied. The Commissioner stated that although it could be difficult to enforce, it could improve parental and public awareness of the harms associated with alcohol consumption by minors:

Although such legislation may be difficult to enforce as consumption mainly occurs in private premises and police would have to be alerted to it occurring, it would support police intervention where children are at risk.

It may also contribute to raising parental and community awareness to the harmful impact of alcohol consumption on children, including through secondary supply.⁴

11. Others pointed to what they saw as shortcomings in the legislation of other jurisdictions, particularly in terms of enforcement and proving offences. The Alcohol and Other Drugs Council of Australia commented on difficulties with enforcement in Queensland, despite the recent tightening of regulations:

Even in the case of Queensland they have attempted to put in new legislation to combat the problems they have had with the annual schoolies activity and now you will see that although they may have thought that it was tightened up, it was done very much on the run and it was done very quickly and police report that it is very difficult to manage, very difficult to prove someone at fault in terms of that secondary supply where a parent may have delegated another adult to do that—how do you prove that in those sorts of situations?⁵

12. The Ulladulla Community Drug Action Team stated that although it was an improvement on current NSW legislation, the Queensland legislation was too

³ Additionally, the responsible adult should not be intoxicated, nor allow the youth to become intoxicated. Responsible adults are defined as the youth's parent, step-parent or guardian; an adult who has parental rights and responsibilities for them; or an adult that has been authorised by a parent, step-parent or guardian to supply liquor to the youth: *Police Offences Act 1935* (Tas) s 26(2) and Submission 5, Department of Police and Emergency Management, Tasmania, p 2

⁴ Ms Megan Mitchell, Commissioner, Commission for Children and Young People, Transcript of evidence, 31 October 2012, p 42

⁵ Mr David Templeman, Chief Executive Officer, Alcohol and Other Drugs Council of Australia, Transcript of evidence, 5 November 2012, p 48

‘subjective and open to interpretation’ in terms of what constitutes responsible supply.⁶

Defining responsible supervision

13. The Committee sees merit in legislative provisions that make it clear to parents and the community that alcohol is only to be provided to minors in a responsible way. This would require the concept of responsible supervision of supply to be defined. In terms of the specific factors or circumstances that may be relevant to determining responsible supervision, the Committee heard support for the provisions in the Queensland and Tasmanian legislation.⁷
14. On the other hand, the Committee heard caution about trying to encapsulate every circumstance or criterion in legislation. It was also noted that complex laws are difficult to convey to the public, making public education messages less easy to communicate.⁸
15. In considering the question of what would constitute ‘responsible supervision’, the Committee heard views about whether a minimum age limit for the provision of alcohol to minors should be prescribed. Inquiry participants’ calls for an age limit to be mandated were based on evidence of the effects of alcohol on the developing brain. It was noted that the National Health and Medical Research Council’s guidelines state that for young people under 18, not drinking is the safest option, and that children under 15 are at greatest risk of harm from alcohol and it is especially important for them not to drink alcohol, while for those aged 15 to 17, the safest option is to delay initiation of drinking for as long as possible.⁹
16. The Commission for Children and Young People advocated for reform to ensure that alcohol is not served to minors under the age of 15. It was argued that research and evidence about the harmful effects of alcohol consumption on children’s health—particularly if they are under 15—warrants such a move.¹⁰ Other stakeholders who supported prohibiting alcohol supply to young people under 15 included Life Education NSW and Family Voice Australia.¹¹
17. The Committee is proposing to recommend that parents and guardians must supply alcohol to minors in a way that is consistent with responsible supervision. Factors that could determine whether alcohol was supplied with responsible supervision would include the minor’s age, the amount and type of alcohol being consumed, whether the supervising adult and the minor are drunk, and whether food has been consumed with the alcohol.

⁶ Submission 6, Ulladulla Community Drug Action Team, p 4

⁷ Superintendent Patrick Paroz, Commander, Drug and Alcohol Coordination, NSW Police Force, Transcript of evidence, 5 November 2012, p 19

⁸ Mr Peter Cox, Acting Assistant Director, Policy and Strategy, Office of Liquor, Gaming and Racing, Transcript of evidence, 5 November 2012, p 16

⁹ National Health and Medical Research Council, *Australian guidelines to reduce health risks from drinking alcohol*, 2009, pp 57-66, http://www.nhmrc.gov.au/files_nhmrc/publications/attachments/ds10-alcohol.pdf

¹⁰ Ms Mitchell, Transcript of evidence, 31 October 2012, p 42

¹¹ Submission 9, Life Education NSW, p 1, Submission 16, Family Voice Australia, pp 4-5

PROPOSED RECOMMENDATION 1

That the *Liquor Act 2007* be amended to provide that parents, guardians and responsible adults must supply alcohol to minors in a manner that is consistent with responsible supervision.

PROPOSED RECOMMENDATION 2

That the *Liquor Act 2007* be amended to specify factors to be considered in determining whether supply of alcohol to a minor by a parent or guardian is consistent with responsible supervision, including:

- **the minor's age**
- **whether the adult is drunk**
- **whether the minor is drunk**
- **whether the minor is consuming the alcohol with food**
- **whether the adult is responsibly supervising the minor's consumption of the alcohol**
- **the quantity and type of alcohol, and the time period over which it is supplied.**

PROPOSED RECOMMENDATION 2 - QUESTION

Should there be a minimum age limit for the supply of alcohol to minors by parents and guardians? If so, what should the age limit be?

SHOULD PARENTS AND AUTHORISED ADULTS BE ABLE TO SUPPLY ALCOHOL TO MINORS?

18. The Committee heard arguments for tougher restrictions, including the repeal of provisions that enable parents and guardians to provide alcohol to minors. For example, the Broken Hill Community Drug Action Team and Barrier Liquor Accord stated that the law should be unambiguous about supplying alcohol to minors 'no matter where or who supplies, including parents and guardians.'¹² The Ulladulla Community Drug Action Team argued that it should be an offence for any person to supply alcohol to minors in any setting, to remove ambiguity, improve compliance with the law and enforce a culture that prohibits alcohol consumption by young people.¹³
19. However, it was also argued that preventing parents from providing alcohol to minors altogether would be going too far. The Commission for Children and Young People pointed to possible unintended consequences if parents were prohibited from supplying alcohol to their children. The Commission observed that children could be more likely to obtain alcohol from peers or older siblings,

¹² Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 1

¹³ Submission 6, Ulladulla Community Drug Action Team, pp 1-2

or from other adults near licensed premises.¹⁴ In evidence to the Committee, the Commissioner, Ms Megan Mitchell, did not support this proposal on the basis that it was unrealistic.¹⁵

20. Mr Peter Cox from the Office of Liquor, Gaming and Racing stated that while it would be easier to convey a message to the community about what is illegal, such a measure would be difficult to enforce, particularly in light of already established social and cultural traditions. He also raised the question of whether a blanket prohibition would take into account cultural and religious practices that have traditionally allowed alcohol to be provided, albeit in small amounts, to under 18s.¹⁶
21. Superintendent Paroz from the NSW Police Force stated that he did not think it would be a realistic proposal, as it was important for parents to have the opportunity to educate their children about responsible alcohol use. He also said that there would be a 'significant impact' on resources if police had to target every person under 18 who was consuming alcohol.¹⁷

PROPOSED RECOMMENDATION 3 - QUESTION

Should section 117(4) of the *Liquor Act 2007*, which enables parents and guardians to supply alcohol to minors, be removed or retained?

Removing parents' ability to authorise supply

22. The Act provides a defence against prosecution for the offence of providing liquor to a minor if a defendant can prove they were authorised by the minor's parent or guardian to provide them with liquor.
23. The defence against prosecution was seen by some as an inappropriate delegation of parental responsibility, while others argued that it would be impractical and unrealistic to remove. Participants variously argued that removing the defence would unnecessarily criminalise people, or that reform to remove it would reduce harm to young people and ensure parents' control over their child's drinking.
24. Mr Cox from the Office of Liquor, Gaming and Racing said that the current law 'recognises the circumstances where a parent may want a relative to provide alcohol to their children at a family gathering.' However, he also noted that removing the defence would make it easier for regulators to convey a message about when alcohol can be provided to minors.¹⁸
25. According to Mr Cox, further guidance and clarity could be provided on the circumstances in which authorisation by a parent or guardian could occur. For example, whether a 19 year old who is consuming alcohol at a party is an

¹⁴ Ms Mitchell, Transcript of evidence, 31 October 2012, p 43

¹⁵ Ms Mitchell, Transcript of evidence, 31 October 2012, p 45

¹⁶ Mr Cox, Transcript of evidence, 5 November 2012, p 11

¹⁷ Superintendent Paroz, Transcript of evidence, 5 November 2012, pp 20-21

¹⁸ Mr Cox, Transcript of evidence, 5 November 2012, p 13

appropriate person to be acting as a parent or guardian of a 17 year old who is also consuming alcohol.¹⁹

26. There was support for the retention of the current provision that enables parents to authorise other adults to supply their child with alcohol. For example, Mr Michael Thorn from FARE said that the provision should be retained, but in a strengthened form.²⁰
27. The NSW Council for Civil Liberties argued that removal of this provision would go too far by criminalising relatives who offer young people alcohol on family occasions when parents are not present.²¹
28. Other stakeholders expressed concern about parents' ability to give such authorisation, noting problems around lack of proper supervision and lack of clarity about parental responsibility.²² For example, Superintendent Patrick Paroz of the NSW Police Force told the Committee that his understanding of the original intent of the Act was to allow young people to participate in family celebrations. He noted that ideally parents would be present and supervising their children, thereby enabling them to teach their children about drinking: 'You cannot delegate raising your child to someone else. This is a critical part of raising children: Teaching them about alcohol, teaching them about how to consume alcohol and teaching them how to behave when consuming alcohol.'²³

PROPOSED RECOMMENDATION 4 - QUESTION

Should the defence against prosecution in section 117(5) of the *Liquor Act 2007*, which enables parents and guardians to authorise other adults to supply alcohol to their child, be removed or retained?

Defining the form of authorisation

29. Possible improvements to the defence against prosecution were also raised as an option. Stricter authorisation requirements were canvassed, including the requirement for authorisation to be in written form. Mr Cox from the Office of Liquor, Gaming and Racing observed that parental authorisation could be given in a number of ways. The form of authorisation is currently not prescribed and courts have had to determine whether authorisation has legitimately been given. Mr Cox cautioned against attempting to capture a range of individual circumstances in legislation:

It is sometimes difficult to prescribe in legislation, particularly in circumstances where enforcement can be a challenge, some black and white rules around that. To envisage for inclusion in legislation all the circumstances in which this might occur is very difficult, and sometimes it is left to the courts to determine that, rather than try

¹⁹ Mr Cox, Transcript of evidence, 5 November 2012, p 13

²⁰ Mr Michael Thorn, Chief Executive, Foundation for Alcohol Research and Education, Transcript of evidence, 31 October 2012, p 38

²¹ Submission 10, NSW Council for Civil Liberties, p 1

²² Ms Mitchell, Transcript of evidence, 31 October 2012, p 42; Submission 6, Ulladulla Community Drug Action Team, p 3; Submission 24, Mr David Elliott MP and Mr Dominic Perrottet MP, p 2

²³ Superintendent Paroz, Transcript of evidence, 5 November 2012, p 19

to prescribe minute details of every circumstance in which an authorisation can be given and what the authorisation can and cannot look like.²⁴

30. Tasmania's legislation does not prescribe the form of authorisation. Permission may be verbal, written or electronic but should be considered 'legitimate and reliable'. In evidence to the Committee, Ms Debra Salter from Tasmania's Department of Police and Emergency Management commented on the difficulties of verifying the authenticity of written notes:

We grappled with this quite considerably when the legislation was being drafted. We went through all the nuances: is the fact that a youth supplies a written note that says, "My parents have agreed", necessarily legitimate, or can you test that? We tried to place some onus on the responsible adult to ensure that they were confident that however the permission was given it actually came from the right person. If you were prepared to accept a written note, to be confident that it came from the adult and not one that perhaps had been otherwise drafted.²⁵

31. The Committee heard that requiring written authorisations could be problematic to implement. Mr Paul Dillon told the Committee that it could be difficult in practice due to the potential for forged written authorisations.²⁶

32. The proposal to require written authorisation was supported by a number of participants in the inquiry. The AHA told the Committee that from a policing point of view, such a provision would 'clearly allow for the situation to be tested and it could easily be determined whether an offence has or has not been committed.'²⁷ The Victorian Alcohol and Drug Association argued that the act of obtaining consent would provide opportunities for greater discussion and communication between parents and young people about alcohol consumption, which could reduce harms to young people.²⁸ According to the Foundation for Alcohol Research and Education written authorisation would clarify what constitutes authorisation, and put greater onus on the person who provides alcohol to prove that they were authorised to do so.²⁹

33. The NSW Police Force also supported written authorisations. According to Superintendent Paroz, a written note should state the names of those involved, the number and type of drinks authorised and the place where the alcohol is being consumed:

... the best authorisation is being present and saying, "Yes, that young person has my authorisation to consume alcohol." To make it enforceable I think it needs to be in writing, setting out clearly who the parent or guardian is, who the young person is, the date, the number of drinks the young person is allowed, the type of drink, and the place they are going to be. That sounds like a very nanny state, police state-type

²⁴ Mr Cox, Transcript of evidence, 5 November 2012, pp 9-10

²⁵ Ms Debra Salter, Manager, Policy, Development and Research Services, Department of Police and Emergency Management, Tasmania, Transcript of evidence, 5 November 2012, p 52

²⁶ Mr Paul Dillon, Director, Drug and Alcohol Research and Training Australia, Transcript of evidence, 5 November 2012, p 59

²⁷ Mr David Cass, Consultant Policy Adviser, Australian Hotels Association, Transcript of evidence, 31 October 2012, p 6

²⁸ Submission 3, Victorian Alcohol and Drug Association, p 2

²⁹ Mr Thorn, Transcript of evidence, 31 October 2012, p 34

requirement but it would force a discussion between a parent and a young person about where they are going, who they are going to be with, where they are drinking, what they are drinking and how many they are planning on having.³⁰

PROPOSED RECOMMENDATION 4 - QUESTION

If it is retained, should authorisation for supplying alcohol to a minor be required to be in writing? How else could the current provisions be improved?

STRONGER PENALTIES

34. A stronger penalty regime for offences relating to the supply of alcohol to minors was raised during the inquiry. The possibility of mandatory education for both adults and minors who break the law was also discussed, along with ways to improve enforcement of the law.

Views on appropriate penalties

35. The Liquor Act reverses the burden of proof in prosecutions for secondary supply offences. A defendant must prove that they are the parent or guardian of a minor, or that they were authorised by the parent or guardian of a minor to sell or supply alcohol to them. Maximum penalties of \$11,000 and/or 12 months imprisonment apply to these offences.³¹
36. According to the NSW Government 'the law is designed to decriminalise circumstances where a parent or guardian supplies their child with liquor in the family home, while at the same time, providing significant penalties where liquor is sold or supplied to a minor in most other settings.'³²
37. Some inquiry participants argued that current penalties are inadequate. Mr Elliot Kleiner, Chief Executive Officer of PromNight Events, told the Committee that current penalties were insufficient to act as a deterrent and should be increased.³³ On other hand, the NSW Council for Civil Liberties argued that increasing penalties would be ineffectual, with little deterrent effect.³⁴
38. The Commission for Children and Young People favoured a broad penalty regime that would allow police discretion to determine what was appropriate for different family circumstances. The Commission expressed concern that fines could have a disproportionate impact on disadvantaged families:

One of the things we are concerned about with a fine regime is that for more socio-economically disadvantaged families there may be other unintended negative consequences for the children involved—the removal of a parent, missing out on support, food and other familial supports. I think it would be very helpful to have a regime where the police have discretion about what kinds of penalties they could impose depending on the circumstances.³⁵

³⁰ Superintendent Paroz, Transcript of evidence, 5 November 2012, p 22

³¹ *Liquor Act 2007* (NSW) s 117(10) and Submission 18, NSW Government, p 1

³² Submission 18, NSW Government, p 3

³³ Mr Elliot Kleiner, Chief Executive Officer, PromNight Events, Transcript of evidence, 31 October 2012, p 25

³⁴ Submission 10, New South Wales Council for Civil Liberties, p 2

³⁵ Ms Mitchell, Transcript of evidence, 31 October 2012, p 43

Other jurisdictions

39. The only other jurisdiction apart from NSW that provides a penalty of imprisonment for supplying liquor to a minor is Tasmania, where a penalty of 12 months imprisonment (or a fine of up to \$12,000) applies.³⁶
40. Other states rely on fines alone, without imprisonment. In Victoria, the maximum penalty for supplying alcohol to a minor in a private home without parental consent is \$7,000.³⁷ In Queensland, a person (including the minor's parent) charged with supplying a minor with an excessive amount of alcohol or not providing adequate supervision is liable for a penalty of up to \$8,000. In the Northern Territory a fine of up to \$14,100 applies for supplying liquor to a minor, unless the person is a responsible adult and supply is consistent with responsible supervision.³⁸

PROPOSED RECOMMENDATION 5 - QUESTION

What is an appropriate penalty for supplying liquor to a minor other than on licensed premises? Are current penalties adequate or should they be increased?

Mandatory education

41. There were mixed views on the value of mandatory education as a penalty option. Some participants offered qualified support, noting that mandatory workshops may not be effective or appropriate in all cases and should be applied with discretion. Mr Michael Thorn from FARE noted there was some evidence to support mandatory attendance at an education program as a penalty option, however he raised concerns about the potential to criminalise people, and noted that it would be a costly approach: 'It does not come cheap and you have got to be careful of net widening. It does draw people into the criminal justice system if they do not attend.'³⁹
42. The NSW Parents' Council supported mandatory education, on the basis that it would provide an opportunity for discussion with parents who would not be motivated to attend voluntarily:
- ... I think most parents are not motivated and are not going to attend these workshops. In that case, I think that is probably the best outcome, that they come in with the minor or with the young person and we can all discuss alcohol, the consumption of alcohol and the risks associated with it. I think that is a fantastic idea.⁴⁰
43. It was noted that the number of offenders may impact on the feasibility of an education program. The Committee heard that as only nine people had been

³⁶ Submission 18, NSW Government, p 5, Submission 5, Department of Police and Emergency Management, Tasmania, p 3

³⁷ Submission 12, Australian Drug Foundation, p 6. This is the same as the penalty faced by a licensee who supplies alcohol to a minor at a licensed venue.

³⁸ Submission 18, NSW Government, p 14

³⁹ Mr Thorn, Transcript of evidence, 31 October 2012, p 38

⁴⁰ Dr Ramy Mezrani, Central Coast and Vice President (Country), NSW Parents' Council Inc, Transcript of evidence, 31 October 2012, p 15

charged under the Tasmanian legislation it was questionable whether there are currently enough offenders to warrant setting up such a program in that state.⁴¹

44. The Committee heard from the Ministry of Health that mandatory attendance at workshops had been used for cannabis offences but it was unclear whether such measures would achieve the desired outcome of behavioural change in this specific context:

Mandatory workshops can be helpful in certain circumstances but I would have to say it would be unlikely that across the entire cohort you would get the outcomes that you would be looking for. It is a reasonable policy lever. It has been used before and there is evidence you can draw on from those previous uses, particularly within the cannabis space. I would be guarded about whether it would actually lead to the behaviour change you are hoping for in the longer run.⁴²

45. The Cannabis Cautioning Scheme gives police the discretion to caution adult offenders for minor cannabis offences involving personal use. The caution contains a warning about the health and legal consequences of cannabis use. The caution notice includes contact numbers for the Alcohol and Drug Information Service, which provides a dedicated, confidential service to cautioned offenders, informing them of treatment, counselling and support services. A person can only be cautioned twice, and people who receive a second, final caution are required to contact ADIS for a mandatory education session about their cannabis use.⁴³
46. The Committee is not aware of any mandatory education schemes operating in relation to alcohol-related offences in Australia.
47. The Committee is proposing that attendance at education workshops form part of the penalty options under the Liquor Act. The imposition of this penalty could be voluntary or mandatory, and could apply to parents and/or minors.

PROPOSED RECOMMENDATION 6

That attendance at education workshops for adults who commit offences relating to the supply of alcohol to minors form part of the suite of penalties under the *Liquor Act 2007*.

PROPOSED RECOMMENDATION 6 - QUESTION

Should there be provision for minors involved in secondary supply offences to attend education workshops?

PROPOSED RECOMMENDATION 6 - QUESTION

Should the application of this penalty option be determined on a case by case basis, or should it be mandatory?

⁴¹ Ms Salter, Transcript of evidence, 5 November 2012, p 53

⁴² Mr David McGrath, Director, Mental Health and Drug and Alcohol Programs, NSW Ministry of Health, Transcript of evidence, 5 November 2012, p 7

⁴³ NSW Police Force, Cannabis Cautioning Scheme,
http://www.police.nsw.gov.au/community_issues/drugs/cannabis_cautioning_scheme

IMPROVING ENFORCEMENT

48. The Committee heard suggestions to improve enforcement of current laws around supply of alcohol to minors. Although better enforcement was called for, the complexity of enforcing offences that are difficult to prove, not well understood, and which occur on private property was acknowledged.
49. In discussing enforcement, Superintendent Paroz of the NSW Police Force spoke about the difficulty of proving that permission has not been given for a minor to consume alcohol and prosecuting successfully:

It is very difficult to enforce that side of it in terms of whether or not the young person has the authority of their parent or guardian to consume alcohol. ... We might detect someone who is under the influence of alcohol at a party where there are adults. For us to launch a prosecution, we have to get evidence, firstly, that they are intoxicated and, secondly, evidence in relation to who has provided the alcohol, but then the critical part is evidence that they do not have the permission. At the moment there is a legislated defence under section 117(5) I believe that says if they have permission from a parent or guardian, they are allowed to. It is really as simple as that. That leaves it open-ended. If I come to your place the next day after speaking to a juvenile and if you say, "Yes I gave permission", then we would not prosecute.⁴⁴

50. On the question of whether police should be given greater powers to enter private residences to enforce secondary supply laws, Mr Michael Thorn from FARE commented that 'we would need to be careful' in going down that path. Nonetheless Mr Thorn considered that there was a case for such an approach due to the potential for greater harm to occur if drinking occurs away from parental supervision. Mr Thorn also argued that parents who have not given permission for their child to be served alcohol have a right to request police to attend a function where they suspect that alcohol is being provided.⁴⁵
51. Some inquiry participants argued that better enforcement by police could act as a deterrent. The Cancer Council NSW submitted that stronger enforcement would help to change drinking behaviour and attitudes.⁴⁶ Mr Paul Dillon described the situation where minors were supplied with alcohol by other young people over 18—'the randoms, with the boyfriends, the girlfriends'—and suggested that a police crackdown or blitz on this behaviour would have an impact:

To me if you really wanted to make an impact very quickly, and reduce the amount of alcohol that is drunk at a party on a Saturday night, police that. It is incredibly easy to police. The Hornsby police have done this over a number of years. They sit in an unmarked car at a bottle shop and watch kids come up and actually buy the alcohol. They ask people to buy the alcohol for them. They simply get out of the car and they book them. Those people get an automatic fine, secondary supply, bang. You only need to do that three or four times and the word gets out pretty quickly not to get alcohol in that way. It is simple to police but nobody is doing that.⁴⁷

⁴⁴ Superintendent Paroz, Transcript of evidence, 5 November 2012, p 19

⁴⁵ Mr Thorn, Transcript of evidence, 31 October 2012, pp 36-7

⁴⁶ Submission 17, Cancer Council NSW, p 3

⁴⁷ Mr Dillon, Transcript of evidence, 5 November 2012, pp 59, 60-61, 63

52. The National Centre for Education and Training on Addiction undertook a review of liquor licensing legislation, which examined the enforcement of secondary supply offences. Police who took part in the review indicated they had difficulty enforcing the law if offences occurred on private property. It was also noted that limited resources and the challenge of proving the offence presented challenges for a successful prosecution, and limited the deterrent effect of the law.⁴⁸

PROPOSED RECOMMENDATION 7 - QUESTION

How could the enforcement of secondary supply laws be improved? Should the focus instead be on public education and preventing harmful underage drinking?

BETTER EDUCATION MEASURES

53. The importance of educating parents, young people and the general public was a key theme emerging through the inquiry. The Committee agrees with inquiry participants who argued that any reforms should be accompanied by a public education campaign to convey the message about the supply of alcohol to young people. The Cancer Council NSW argued that 'with a good communication strategy, the NSW community would accept stronger enforcement of laws relating to minors. Previous campaigns about delaying drinking to protect brain development have paved the way'.⁴⁹

Current campaigns and education measures

54. There are a number of initiatives in place to improve community understanding of underage liquor laws. Information on the Office of Liquor, Gaming and Racing (OLGR) website outlines key provisions and answers frequently asked questions. A number of NSW liquor accords⁵⁰, patron and community education campaigns focus on preventing underage drinking, often coinciding with events like Schoolies Week and school formal season. The Department of Education and Communities and the OLGR are developing an online education resource for year 9 to 12 students to ensure 16 to 18 year olds have a better understanding of liquor laws. *Supply Means Supply*, a NSW Police education and licensing enforcement program, aims to raise awareness and knowledge of offences and penalties relating to the supply of alcohol to minors.⁵¹
55. Nationally, DrinkWise Australia conducts education campaigns and community engagement programs, which include collaboration with influential and well-known Australians.⁵²
56. These campaigns address youth binge drinking and do not focus on the legality of secondary supply and parental responsibility. The value of current campaigns,

⁴⁸ Submission 13, National Centre for Education and Training on Addiction, p 3

⁴⁹ Submission 17, Cancer Council NSW, p 4

⁵⁰ Liquor accords are agreements by licensees and other stakeholders to take certain actions in local communities which aim to improve safety in entertainment areas and reduce alcohol-related anti-social behaviour, offences and violence. See http://www.olgr.nsw.gov.au/accords_about.asp (accessed 20 March 2013).

⁵¹ Submission 18, NSW Government, pp 3-4. See

http://www.police.nsw.gov.au/community_issues/alcohol/supply_means_supply (accessed 25 March 2013).

⁵² Submission 1, AHA, p 9

such as those run by DrinkWise was acknowledged. However, it was also noted that their effectiveness can be limited by the fact that they generally do not refer to relevant state and territory liquor laws.⁵³

Lack of community and parental awareness

57. There was evidence of a lack of public and parental awareness of secondary supply laws and a need for further education and awareness campaigns. It was argued that information to guide and inform parents about current laws is difficult to locate. The need for better education and peer support from other parents was also raised.⁵⁴
58. The NSW Parents' Council commented that finding accurate and easily accessible information on current liquor laws on the internet was difficult and most parents would have trouble locating good information. The Parents' Council argued that clear, readily available information would empower parents:
- If we could have very clear guidelines that you can find at the click of a button—not going through lots of websites—that is written in plain English and what the consequences are. ... If we are able to direct parents and say, "Here is the legislation; here is the law", that might give parents that feeling of empowerment to say, "I am sorry, not here. It is against the law."⁵⁵
59. It was noted that young people receive more education than parents on alcohol related issues: 'Children are getting education at school through a variety of channels such as speakers, subjects about alcohol and its effects and the laws. Where are parents getting that information from? They are not getting it.'⁵⁶ The Broken Hill Community Drug Action Team stated that young people in Broken Hill were more aware of responsibilities around the supply of alcohol to minors than their parents.⁵⁷

Proposals for public awareness and education strategy

60. The Committee heard various views of the form that a public education campaign could take. It was noted that a campaign should aim to inform parents and young people about changes in the law, provide practical information and skills to assist with compliance, and raise awareness of the risks of unsupervised adolescent drinking.⁵⁸
61. The AHA proposed television advertisements screening during programs with young viewers, for instance, reality and talent quest shows, rugby league telecasts and music video programs. The advertisements 'should be factual with only a minimal ingredient of humour' and should feature a well-known personality who is popular with young people.⁵⁹ The Broken Hill Community Drug

⁵³ Submission 1, AHA, p 10

⁵⁴ Ms Rowena Stulajter, Community Development Manager, NSW Parents' Council Inc, Transcript of evidence, 31 October 2012, p 8

⁵⁵ Ms Stulajter, Transcript of evidence, 31 October 2012, pp 8, 11

⁵⁶ Ms Stulajter, Transcript of evidence, 31 October 2012, p 11

⁵⁷ Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 2

⁵⁸ Submission 12, Australian Drug Foundation, p 2

⁵⁹ Submission 1, AHA, p 11

Action Team suggested a TV or social media advertisement showing a party with a 'choose your own ending' - a police officer taking a drunk underage drinker home, or police telling parents that their child is seriously injured or dead.⁶⁰

62. In terms of educating children about alcohol, it was suggested that the earlier education starts, the more effective it would be. The Committee heard that education about alcohol should start for children at primary school age.⁶¹
63. With regard to educating parents about the health impacts of alcohol on their children, the Commission for Children and Young People proposed that parents could receive information about alcohol as part of routine early childhood health checks.⁶²

Education campaign undertaken in Tasmania

64. When legislation concerning 'responsible supply' was enacted in Tasmania, police designed and distributed posters and pamphlets throughout the community, including to schools and to off-licensed premises. The legislation was advertised in the state's three major regional newspapers. Police have also distributed information to high schools, colleges and licensed premises over the last three years. Tasmania's Department of Police and Emergency Management stated that 'anecdotally there appears to be a reasonable level of community awareness of the legislation' and expressed the view that 'the value of the legislation is seen in the level of awareness raised in the community, and not in the number of fines or charges made for offences under the legislation.'⁶³
65. The Committee is proposing to recommend public awareness and education to accompany amendments to the Liquor Act. The campaign should focus on informing the public about the law, and highlighting the health effects of underage drinking. The Committee proposes a website that informs parents about the law in a clear and easily accessible way. It is also proposed that parents should receive information about the health effects of alcohol when their children are younger, as part of early childhood health checks and information sessions.

PROPOSED RECOMMENDATION 8

That any amendments to the *Liquor Act 2007* regarding supply of alcohol to minors be accompanied by a social marketing/public education campaign.

PROPOSED RECOMMENDATION 9

That the public education campaign have a dual focus – to clearly state what is permitted under the law, and to highlight the health risks of alcohol consumption by minors, based on National Health and Medical Research Council guidelines.

⁶⁰ Submission 4, Broken Hill Community Drug Action Team and Barrier Liquor Accord, p 3

⁶¹ Ms Stulajter, Transcript of evidence, 31 October 2012, p 14

⁶² Ms Vanessa Whittington, Senior Policy Officer, Commission for Children and Young People, Transcript of evidence, 31 October 2012, p 44

⁶³ Submission 5, Department of Police and Emergency Management, Tasmania, p 2

PROPOSED RECOMMENDATION 10

That, as part of a public education campaign, a website be developed to provide parents with clear, readily accessible information about their legal responsibilities in relation to supplying alcohol to minors. The website should also inform parents on how to talk to young people about the law and how to talk to other parents about the legal and health consequences of supplying alcohol to minors.

PROPOSED RECOMMENDATION 11

That information about the legal and health consequences of supplying alcohol to minors be provided to parents attending early childhood education/information sessions when their child is of pre-school age.