

## **NSW Government response to Legislative Assembly Social Policy Committee's report: Provision of Alcohol to Minors**

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The NSW Government is committed to reducing levels of alcohol related harm in the community. Its comprehensive package of reforms targeting drug and alcohol-fuelled violence are currently being implemented across NSW. These build on a strong foundation of existing initiatives aimed at improving the safety and compliance standards of licensed venues, changing our culture, and promoting personal responsibility.

There is no single or simple cure-all for these problems, particularly when community attitudes to alcohol run deep and are often developed at a young age.

In relation to the provision of alcohol to minors, the NSW Government recognises there is significant community concern about the prevalence of risky underage drinking and its potential consequences, including long-term health impacts and social impacts such as anti-social behaviour and juvenile offending. However, it acknowledges these concerns need to be carefully and sensitively balanced with community expectations about the ability of parents and guardians to make decisions about how and when their children are introduced to alcohol.

The circumstances in which alcohol can be lawfully provided to a minor in NSW are limited and can attract significant penalties of up to \$11,000 and/or 12 months imprisonment. It is an offence to sell or supply alcohol to a minor, whether on licensed or unlicensed premises, except:

- where the alcohol is supplied by the minor's parent or guardian on unlicensed premises, such as the family home; and
- where the alcohol is supplied to a minor by another adult on unlicensed premises with the parent or guardian's authorisation.

These circumstances are known as 'secondary supply'.

The NSW Government recognises community concerns that the responsibilities of parents and guardians under the current secondary supply laws may not be widely understood.

The NSW Government acknowledges the work of the Legislative Assembly Social Policy Committee in considering whether the existing arrangements remain an appropriate reflection of community attitudes, and options for strengthening them.

The Government's response to the Committee's eight recommendations is outlined below.

## Recommendations 1-3

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*The Committee recommends that:*

- *section 117(4) of the Liquor Act 2007, enabling parents and guardians to supply alcohol to minors, be retained;*
- *the defence against prosecution in section 117(5) of the Liquor Act 2007, enabling an adult to provide alcohol to a minor if parental authorisation can be proved, be retained; and*
- *the form of parental authorisation required under section 117(5) not be prescribed in the Liquor Act 2007.*

### Supported

The NSW Government supports maintaining an exemption for parents and guardians for the offence of providing alcohol to a minor on unlicensed premises. This allows parents and guardians to take a more active role in how their children are introduced to alcohol and provide the basis for an open, ongoing dialogue about responsible alcohol consumption.

The NSW Government also agrees that it remains appropriate for parents and guardians to have the ability to authorise other adults, such as relatives and family friends, to provide alcohol to their children on unlicensed premises, for instance, at a family gathering.

While limiting the form of this authorisation to written permission could make the level of proof required clearer, it would be problematic to implement primarily due to the risk of forgery. Placing the onus of establishing the authorisation's validity on the defendant already sends a clear signal to adults that they need to be able to prove the authorisation existed and have a clear understanding of what the authorisation allowed. The NSW Government supports not prescribing the form of the authorisation for these reasons.

## Recommendation 4

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*The Committee recommends that the Minister for Tourism, Major Events, Hospitality and Racing introduce amendments to the Liquor Act 2007 to require that parents, guardians and responsible adults must supply alcohol to minors in a manner that is consistent with responsible supervision. Amendments should describe factors to be considered in determining whether supply is consistent with responsible supervision, including:*

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

### Supported

The NSW Government agrees that any alcohol supplied to a minor by their parent or guardian or by an adult with their parent/guardian's authorisation should be provided in a manner that is consistent with responsible supervision. The responsible supervision requirement for secondary supply recommended by the Committee reflects provisions in place in Queensland, Tasmania, and the Northern Territory.

Developing descriptors for a non-exhaustive list of factors to be considered in determining whether supply is consistent with responsible supervision will provide guidance on appropriate behaviours to parents, guardians and any adults they authorise to provide alcohol to minors. The NSW Government will consider further the appropriate factors which should be taken into account in determining whether the alcohol has been provided in a responsible manner.

Introduction of a responsible supervision requirement for secondary supply was also identified in the *Report on the Statutory Review of the Liquor Act 2007*, released in December 2013. The NSW Government is currently developing a response to the Report's recommendations. The responsible supervision requirement will be considered in light of any other legislative changes to the *Liquor Act 2007* as a consequence of the Report.

## **Recommendations 5 and 6**

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*The Committee recommends that the NSW Government deliver a public education campaign, using various forms of media, to accompany the recommended amendments to the Liquor Act 2007. The campaign should have a dual focus—to state clearly 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.*

*The Committee [also] recommends that, as part of a public education campaign, the NSW Government develop a dedicated website that provides clear, easily accessible information about legal responsibilities in relation to the provision of alcohol to minors. The website should include guidance for parents on how to talk to young people about the law and how to talk to other parents and adults about the legal and health consequences of supplying alcohol to minors.*

### **Supported**

To support the alcohol and drug related violence reform package, the NSW Government is currently developing a major new public awareness campaign that will aim to challenge social acceptance of, and lead to changes in behaviour regarding, binge drinking and associated violent acts. It will include elements aimed at younger audiences and people in their circles of influence, such as friends and family.

Consistent with these efforts, the Government is also committed to ensuring adequate public information is provided to inform people about, and aid compliance with, the new responsible supervision requirement and the existing secondary supply laws.

Evidence indicates that stand-alone campaigns have limited, if any, impact on changing behaviours. Rather, public education efforts should be part of a long term, integrate suite of coordinated activities. They should also be supported by longer term plans to sustain the

message over time, as well as links to relevant supports such as parenting and/or school services and programs.

With regard to the establishment of a dedicated website, a significant number of well-regarded, accessible websites from government and other sources are already in place to promote alcohol and health related information. The Government's preferred approach is to build on these existing resources and activities, and ensure that all relevant activity is better linked and targeted.

The Government will review the accessibility and relevance of these existing resources to identify and leverage the most effective opportunities for communicating this information to parents, guardians and young people. Potentially, this may be via a web-based portal to aid navigation to appropriate information.

### **Recommendation 7**

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*The Committee recommends that the NSW Government make information available about the effects of alcohol consumption on young people's health for parents attending early childhood health checks and other early childhood and parenting services.*

#### **Supported**

Alcohol abuse prevention efforts benefit from consistent messages being given or made readily accessible at relevant times when individuals and families have contact with health and community services. The NSW Government will consider further opportunities to ensure information about the effects of alcohol consumption on young people's health is available to parents when they require and/or would benefit from it most.

### **Recommendation 8**

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*The Committee recommends that the Minister for Tourism, Major Events, Hospitality and Racing introduce amendments to the Liquor Act 2007 to provide that a court may require an adult convicted of an offence under section 117(4) to attend counselling. Provision should also be made for minors involved in offences to attend counselling.*

#### **Not supported**

Between 1 June 2009 and 16 June 2013, only 40 section 117(4) secondary supply matters received a court attendance notice. Given the very small number of matters, the NSW Government does not consider court-mandated counselling would be a cost-effective use of resources at this time.

Instead, the NSW Government is committed to ensuring that parents, guardians and authorised adults have a clear understanding of what is expected of them under the law in the first place, and what constitutes responsible, safe and healthy behaviours in relation to underage alcohol consumption.

The Government is currently identifying opportunities to better leverage existing resources. To complement the culture change campaign announced as part of the NSW Government's alcohol and drug related violence reform package, the Department of Education and

Communities is examining options for strengthening drug and alcohol education in the curriculum, particularly for students in Years 11 and 12.

The NSW Police Force's 'Your Choice,' a diversionary program for minors found with alcohol in their possession in a public place, may also be drawn upon. Young people attend the program with their parent or guardian, providing a chance to enhance parents' ability to influence their child's behaviour and attitudes towards alcohol while educating minors on the health and legal consequences of alcohol consumption.

The Government acknowledges the concerns raised during the course of the Inquiry about the potential adverse impacts that the imposition of a large fine can have on disadvantaged individuals and families.

The State Debt Recovery Office has a range of strategies in place to assist people experiencing financial or other difficulties to help them pay their fine, including:

- allowing extensions and/or payment by instalments;
- allowing eligible people facing serious financial, medical or domestic problems to apply to have the enforcement of the fine postponed for five years and, in certain some cases, written off; and
- allowing eligible clients to reduce their fines through unpaid work with an approved organisation, and through certain courses or treatment.