

PROVISION OF ALCOHOL TO MINORS

Organisation: Foundation for Alcohol Research and Education
Name: Mr Michael Thorn
Position: Manager, Policy and Research
Date Received: 16/07/2013



Foundation for Alcohol
Research & Education

Level 1,
40 Thesiger Court
Deakin ACT 2600

PO Box 19
Deakin West ACT 2600

T 02 6122 8600
F 02 6232 4400

www.fare.org.au

ABN 91 096 854 385

16 July 2013

The Chair
Social Policy Committee
Parliament House
Macquarie Street
Sydney NSW 2000
socialpolicy@parliament.nsw.gov.au

To The Chair

RESPONSE TO THE INQUIRY INTO THE PROVISION OF ALCOHOL TO MINORS: DISCUSSION PAPER

Thank you for the opportunity to comment on *the Provision of Alcohol to Minors: Discussion Paper* (Discussion Paper) arising from the Social Policy Committee's (the Committee) *Inquiry into the provision of alcohol to minors* (the Inquiry). The opportunity to again provide input into the Inquiry's consultation is a welcome demonstration of the Committee's willingness to engage with the community on this very important issue.

Alcohol is consumed by a large number of young people. The 2010 *National Drug Strategy Household Survey* found that 22.8 per cent of 12-15 year olds and 68.4 per cent of 16-17 year olds had consumed alcohol in the previous 12 months. Furthermore, 19.4 per cent of 16-17 year olds drank at levels putting them at short term risk (more than four standard drinks per occasion) at least monthly and 10 per cent drank at these levels at least weekly.¹

These rates of risky drinking among young people contribute to the higher proportion of alcohol-related harms experienced by young people. This results in one Australian teenager dying and more than 60 being hospitalised each week from alcohol-related causes.²

These levels of harm have led to the National Health and Medical Research Council's *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* (Alcohol Guidelines) advising that 'for children and young people under 18 years of age, not drinking alcohol is the safest option'.

There are conflicting messages in the community about acceptable behaviours when it relates to alcohol consumption by minors. Some parents and guardians believe that it is best to provide alcohol to young people in a supervised environment, others think that it is illegal to provide alcohol to young people, while others think that it is never acceptable to provide alcohol to young people.

This confusion needs to be remedied.

Information about secondary supply laws and laws on the supply of alcohol to minors need be communicated clearly and simply.

I will now address each draft recommendations and provide suggestions on policies that were not included within the suggested recommendations, but should be considered by the Inquiry in the preparation of its final report. This letter should be considered alongside the two submissions made by FARE during the Inquiry.

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.

This recommendation is supported.

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 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.***

This recommendation is supported, with an amendment. It is suggested the Committee removes the dot point relating to 'whether the minor is consuming alcohol with food', as the inclusion of this implies that alcohol consumption is acceptable provided that food is concurrently consumed by the minor.

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?

No, doing so will further confuse the situation. While setting a legal age limitations is a valid policy option, particularly given the NHMRC Alcohol Guidelines specify that 'for young people aged 15-17 years, the safest option is to delay the initiation of drinking for as long as possible'.³ However, research commissioned by FARE has indicated that there is already confusion over current age limits. Parents of teenagers aged between 13 and 17 years demonstrated little understanding of the laws surrounding secondary supply and the supply of alcohol in private settings.⁴

Attaching an additional age restriction to the legislation would add to this confusion and it would also provide a message to the community that it is acceptable for young people aged between 15 years and 18 years to consume alcohol. For both of these reasons we do not support introducing a minimum age for the supply of alcohol to minors.

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?

Section 117(4) allowing parents and guardians to supply alcohol to minors should be retained and strengthened to ensure that there is greater accountability for parents and guardians supplying alcohol. In particular, as indicated in *proposed recommendation 1* and *proposed recommendation 2*, the current secondary supply laws for NSW should be strengthened by incorporating 'irresponsible supply' laws (as

present in the legislation for Queensland and Tasmania) which prohibit the unsafe provision of alcohol (e.g. excessive amounts) or the inadequate supervision of the minor's alcohol consumption.^{5 6}

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?

This defence should be retained, but strengthened. Currently there is no clear definition of what constitutes legal authority for an adult to supply alcohol to a minor. This ambiguity should be removed by requiring parents or guardians to prepare a written authorisation for this to occur.

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?

Authorisation for supplying alcohol to a minor should be provided in writing by the minor's parent or guardian. This will not only remove legal ambiguity, but may also foster dialogue between the parties involved. The action of having to provide written permission may also encourage parents to more carefully consider their decision to provide alcohol to their child.

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?

The current maximum penalty of \$11,000 fine and/or 12 months imprisonment is adequate but should be complemented by other penalty options such as education and conferencing.

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?

Education workshops are theoretically a good idea, however, they are costly, time consuming and resource-intensive. Additionally, they tend to be poorly attended. An alternative approach would be to have all parties (i.e. minor being supplied, minor's parents) participate in conferencing shortly after the offence has taken place. Conferencing is superior to education workshops not only by reducing time and costs, but also by enabling face-to-face discussions and tailored education to take place.

Proposed recommendation 6 – Question: Should the application of this penalty option be determined on a case by case basis, or should it be mandatory?

The determination of the application of this penalty should occur on a case by case basis as there is the potential of drawing more people into the criminal justice system if they do not attend these sessions.

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?

A greater public awareness about parents and guardians obligations under secondary supply provisions is needed. Parents need to be fully informed about the legalities surrounding secondary supply, as well as the numerous non-legal consequences of underage alcohol consumption in line with the Alcohol Guidelines' recommendations.

Improvements in legal enforcement are also needed and will provide additional support to parents and further encourage compliance with the law. One way to improve enforcement of secondary supply laws is to remove as much legal ambiguity as possible regarding what constitutes proof of parental permission for another adult to supply alcohol to their child.

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.

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.

These recommendations are supported, subject to the website being supported by a complementary comprehensive public education campaign. Each information channel (e.g. television, website) should be independently comprehensive, that is, the website should not contain information that is not in the public education campaign, and vice versa.

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.

This recommendation is supported.

Additional recommendation for consideration – Controlled purchase operations

The Committee should also make a further recommendation that controlled purchase operations be introduced in NSW to enforce the current laws regarding the direct supply of alcohol to young people.

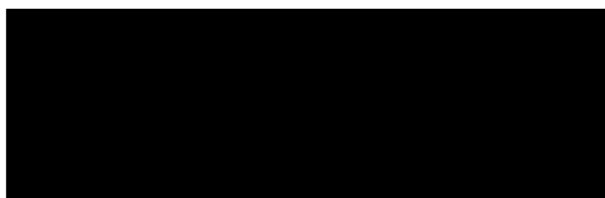
A recent survey of Australian school students revealed that of the students aged between 12 and 17 who had consumed alcohol in the week leading to the survey, 4.8 per cent had purchased their last alcoholic beverage themselves from a licensed venue (e.g. pub, bottle shop). This increased to 7.3 per cent for 16 and 17 year olds.⁷ This indicates a need for stronger enforcement for the direct sale of alcohol to young people.

Controlled purchase operations involve using minors to test licensees' willingness to sell them alcohol, and this is currently illegal in NSW. This enforcement solution is highly effective for the identification of irresponsible retailers and is a procedure used in NSW tobacco enforcement.⁸ New Zealand currently has controlled purchase operations for alcohol that have worked effectively.⁹

Controlled purchase operations are an effective way to enforce the existing legislation about the sale of alcohol to minors and should be used to ensure that licensees are complying with this legislation.

I welcome the opportunity to elaborate on any of the information provided in this response to the Discussion Paper.

Yours sincerely



MICHAEL THORN
CHIEF EXECUTIVE

¹ AIHW. (2011). *2010 National Drug Strategy Household Survey report*. Drug statistics series no. 25. Cat. no. PHE 145. Canberra: AIHW.

² National Health and Medical Research Council. (2011). *Alcohol and health in Australia*.
<http://www.nhmrc.gov.au/your-health/alcohol-guidelines/alcohol-and-health-australia>

³ National Health and Medical Research Council. (2009). Australian guidelines to reduce health risks from drinking alcohol, p.4. Commonwealth of Australia, Canberra.

⁴ Gilligan et al. (2012). Adolescent risky drinking: Sources of alcohol and the role of parents. Canberra: Foundation for Alcohol Research and Education.

⁵ Office of Liquor and Gaming Regulation. (2012). Irresponsible supply: It's no minor offence. Accessed at: http://www.olgr.qld.gov.au/consumers/responsible_drinking/secondary_supply/index.shtml.

⁶ Kempton, H. (2011). Study targets teen drinkers. Accessed at:
http://www.themercury.com.au/article/2011/08/30/257321_lifestyle.html.

⁷ White, V. & Bariola, E. (2012). Australian secondary school students' use of tobacco, alcohol, and over-the counter and illicit substances in 2011. Victoria: Cancer Council Victoria.

⁸ NSW Health. (17 September 2012). Selling smokes to kids is bad for business. Accessed at:
<http://www.wnswlhd.health.nsw.gov.au/UserFiles/files/Nursing/index.php?select1=Media&mr=385>.

⁹ New Zealand Police. (2011). Operation Unite - Controlled purchase operation. Accessed at:
<http://www.police.govt.nz/news/release/28122.html>