

**Submission  
No 12**

## **PROVISION OF ALCOHOL TO MINORS**

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**Inquiry into the  
Provision of Alcohol to Minors**

**Social Policy Committee**

**New South Wales Legislative Assembly**

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## **Executive summary**

The Australian Drug Foundation welcomes the opportunity to contribute to the Inquiry into the Provision of Alcohol to Minors commissioned by the Social Policy Committee of the Legislative Assembly of the Parliament of New South Wales.

The Australian Drug Foundation agrees with the intent of the current provisions of the NSW Liquor Act 2007 which requires a person who supplies liquor to a minor to have the prior approval of the minor's parent or guardian. The intent is to reduce the access of minors to a supply of alcohol and to (try to) ensure that young people do not consume alcohol without the knowledge and approval of their parent or guardian.

The ADF believes additional protection from alcohol related harm should be provided to minors in New South Wales in the form of a requirement that supply of alcohol to a minor must be undertaken in a responsible manner and in responsible circumstances.

Such protection would correct a weakness in the present Liquor Act that allows an unlimited amount of alcohol to be supplied to a minor of any age either by the parent or guardian of the minor, or by a person who has the consent of the minor's parent or guardian; or allows the supply and consumption of alcohol in circumstances that place the minor at risk of harm.

A model is provided by the Liquor Act of Queensland which allows for an offence of irresponsible supply that occurs when an adult supplied a minor with an excessive quantity of alcohol and/or does not supervise the minor's consumption of that alcohol to ensure it is consumed safely.

In addition such amendment to the Liquor Act 2007 should be accompanied by a comprehensive communication and education campaign targeting parents and young people. The campaign would inform the target groups of the amended legislation; increase awareness of the risks associated with (unsupervised) adolescent drinking; and provide practical information and skills to assist compliance.

## **Introduction**

The Australian Drug Foundation is pleased to provide this submission to the Social Policy Committee of the NSW Legislative Assembly on the Inquiry into Provision of Alcohol to Minors.

The Australian Drug Foundation (ADF) is a not-for-profit, non-government organisation which works with communities to prevent alcohol and other drug problems. Our focus is prevention and early intervention. Key strategies include community action, health promotion, education, information, policy, advocacy, and research.

### **1. Levels and patterns of teenage drinking:**

Hazardous and harmful drinking by young people under the age of eighteen is endemic in New South Wales as it is across Australia. A national survey of secondary school students aged 12-17 years in 2005 found 29% drank alcohol on a weekly basis and 31% of the current drinkers consumed a quantity that was considered 'harmful' (White and Hayman 2006).

In 2007 the National Drug Strategy Household Survey found more than one-quarter of teenagers put themselves at risk of short-term alcohol-related harm at least once a month, and the proportion was higher among females (28.3%) than males (24.5%).<sup>1</sup>

### **2. Risk to young people of early drinking**

Alcohol use by young people is of concern for a number of reasons. The Preventative Health Taskforce<sup>2</sup> and the National Health & Medical Research Council in its newly released *Australian Guidelines to Reduce Health Risks from Drinking Alcohol*<sup>3</sup>, cite some of these as:

- initiation of alcohol use at a young age may increase the likelihood of negative physical and mental health conditions, social problems and alcohol dependence;
- the brain is likely to be more sensitive to damage from alcohol in childhood and adolescence as it is still developing, leading to learning difficulties, memory problems and reduced performance on attention-based testing;
- regular drinking in adolescence increases risk of developing dependent or risky patterns of use in young adulthood and later life:

- drinking contributes to the three leading causes of death among adolescents – unintentional injuries, homicide and suicide – along with risk taking behaviour, unsafe sex choices, non-consensual sexual behaviour, and alcoholic overdose;
- risk of accidents, injuries, violence and self-harm are higher among drinkers aged less than 18 years, with drinkers under 15 years of age more likely to experience risky or anti-social behaviour.

## 2.1 National Health and Medical Research Council Guidelines

While many Australians have taken a tolerant attitude to underage drinking in the past in recent years scientific research has found the risk to minors of drinking alcohol is greater than previously understood. In the latest iteration of its 'Alcohol Guidelines' the NHMRC states alcohol is unsuitable for young people: "For children and young people under 18 years of age, not drinking alcohol is the safest option".<sup>4</sup> The guidelines advise that children under 15 years of age are at the greatest risk of harm from drinking and those young people should not drink any quantity of alcohol. While the guidelines advise older teenagers aged 15-17 that it is preferable for them to avoid alcohol, and to delay drinking for as long as possible, consumption by young people of in age group should be limited to a maximum of two standard drinks on any occasion.

A recent Australian study, tracking young people and their drinking patterns from 14-21 years, shows drinking in teenage years is linked to higher risks of alcohol dependence problems in young adulthood, even when drinking was at 'low-risk' levels.<sup>5</sup> These results confirm earlier Australian research that found the drinking patterns of adolescents in the final years of secondary schooling (low, moderate and high level) is predictive of their drinking level in the early years of adulthood.<sup>6</sup>

The Australian Drug Foundation supports the NHMRC alcohol guidelines and encourages parents to assist their children to avoid drinking alcohol until the age of eighteen. However the ADF also understands that some parents may, for various reasons, including cultural traditions, prefer to introduce their children to alcohol in the home prior to age eighteen. In that case the ADF views the parent as having a legal and moral duty of care to ensure the supply of alcohol to their child does not place the child, or any other person, at risk of harm.

### **3.0 Access to alcohol**

Studies on how and where young drinkers acquire alcohol reveal young people find it easy to obtain. Parents are a common source of alcohol for secondary school students, with 45% of 12-17-year-olds indicating their parents gave them their last drink.<sup>7</sup> The proportion of students whose parents supplied them with alcohol was significantly greater among younger students (62% of 12 year olds) than older students (41% of 17 year olds). The three main locations in which current student drinkers consumed alcohol were the family home, a friend's home or at a party.

Recent research has found that adolescent underage drinkers are twice as likely to engage in risky drinking and display alcohol-related problem behaviour when they obtain alcohol from sources other than their parents. The research finds that among adolescents who drink, parental supply is associated with moderate drinking and less drinking-related problems.<sup>8</sup>

Parenting style, parental attitudes to alcohol use and parents' own drinking patterns all influence youth drinking.<sup>9</sup> Parental disapproval of adolescent alcohol use correlated with a lower incidence of later adolescent drinking and reduced influence from the drinking patterns of peers.

### **4.0 Why is supply of alcohol to young people a concern?**

The supply of alcohol to young people has grown as an issue for the community over the last decade. It has coincided with the rise in concern over high risk drinking by adolescents, its potential impact on immediate and longer term health and safety, and the realisation of the role adults play in providing comparatively large amounts of alcohol to children, or enabling them to drink in risky circumstances. In two separate cases in recent years an adolescent lost his life and another was severely and permanently injured due to negligence shown by an adult in providing an excessive amount of alcohol to them and having failed to supervise the subsequent consumption.<sup>10</sup>

The issue arises most commonly at teenage parties when alcohol is supplied by the party hosts, often with inadequate adult supervision. In those cases many parents are concerned that their child is being supplied with alcohol, or has access to it, and is thereby vulnerable to alcohol related risk, particularly without their own knowledge or consent.

Some parents provide young people with alcohol in the belief that it will help to educate them about responsible use, or supply them (i.e. for parties) in the belief that that will control the amount their children will drink, on the assumption that their children won't source an additional amount elsewhere.<sup>11</sup>

Risky drinking by young people is closely associated with unsupervised drinking but parents often supply the alcohol consumed by adolescents in unsupervised situations.<sup>12</sup> Problems associated with the behaviour of intoxicated underage teenagers at events such as 'Schoolies' and youth parties held at private residences led the Queensland Government to introduce rigorous legislation to limit the supply of alcohol to adolescents and to control the circumstances in which adolescents drink.<sup>13</sup>

### **5.0 Current legal situation in Australia**

Four states, New South Wales, Queensland, Tasmania, and Victoria have legislated against supply of alcohol to underage persons in private premises except where the supplier is a parent or equivalent, or has the consent of the parent or equivalent.

In New South Wales, under Section 117 of the Liquor Act 2007, a person cannot sell or supply liquor to a person under the age of 18 years in a licensed premises or any other place.<sup>14</sup> A parent, guardian and spouse of a minor is exempted from prosecution under that section of the Act. The Act has been in force for some years and it is unclear whether the public is well informed of the restriction. A person convicted of the offence is liable for a penalty of up to \$6000, although most penalties are charged at a fraction of that amount.

In Victoria, under Section 119 of the Liquor Control Reform Act 1998, it is an offence for a person to supply alcohol to a minor in a private home without parental consent. The penalty for an offence is the same as the penalty faced by a licensee who supplies alcohol to a minor in a licensed venue – a maximum fine of more than \$7000. The 'secondary supply' provisions of the Act have been in operation only since February 2012.

However legislation in those two states suffers by comparison with provisions in legislation in Queensland and Tasmania which extends 'secondary supply' legislation to also prohibit 'irresponsible supply' to minors.

Section 156A of the Queensland Liquor Act 1992 states '*An adult must not supply alcohol to a minor at private place unless the adult is a responsible adult for the minor.*'<sup>15</sup> A responsible person is a parent, step-parent, guardian, or an adult with parental responsibilities. A second offence of 'irresponsible supply' occurs when the adult who supplies a minor with alcohol does not supervise the minor's consumption of that alcohol to ensure it is consumed safely.

According to the Queensland Office for Liquor, Gaming and Racing, police will take into account a range of relevant factors when determining if the supply of liquor to a minor is irresponsible. They include

- i. whether the adult is unduly intoxicated
- ii. whether the minor is unduly intoxicated
- iii. the age of the minor
- iv. whether the minor is consuming liquor supplied with food
- v. whether the adult is responsibly supervising the minor's consumption of the liquor supplied;
- vi. the quantity of liquor supplied and the period of time over which it was supplied.

OLGR advise the law will not penalise parents/guardians who choose to educate their children in the responsible consumption of liquor through supervised and limited consumption within the family environment.<sup>16</sup>

Thus in Queensland a person (including the minor's own parent) may be charged with supplying a minor with an excessive amount of alcohol or not providing adequate supervision. A person convicted of either offence is liable for a penalty of up to \$8000. By December 2009 at least five persons were charged with illegal or irresponsible supply of alcohol to a minor under that legislation; although as the court may have found the offender guilty and imposed a fine, a conviction may not have been recorded against the offender.<sup>17</sup>

In Tasmania the *Sale or Supply of Alcohol to Youths (Police Offences Act 1935)* legislation regulates the private supply of alcohol to persons under the age of 18 years. If a person supplies a minor with alcohol on private property, and is not the responsible adult (i.e. a parent or adult with parental rights and responsibilities), does not have the permission of the responsible adult, and does not supply alcohol in a responsible manner, they may be fined up to \$12,000 or face imprisonment of up to 12 months.<sup>18</sup>



While the NSW Liquor Act 2007 gives a parent formal control of their child's access to alcohol it does not offer protection to the child from the irresponsible supply of alcohol by a parent or a person acting in the place of a parent.

### **6.0 The case for prohibiting the irresponsible supply of alcohol to minors**

In the ADF's view legislation that prohibits the irresponsible supply of alcohol to minors in domestic premises and settings has several benefits. It would:

- contribute to reducing the prevalence and incidence of underage drinking;
- provide a community standard for parents and other adults, in the absence of a readily accepted social norm;
- contribute to educating the community about the problems inherent in allowing minors to drink alcohol;
- support parents and other adults who do not want to give alcohol to minors or encourage underage drinking;
- encourage adults to cease providing minors with a supply of alcohol;
- not interfere with parents who wish to serve their own children alcohol, or who wish to serve other children, as long as they have approval from a responsible adult.

### **7.0 Recommendation**

The Australian Drug Foundation recommends

- a) NSW strengthen the provisions of its current Liquor Act to prohibit the irresponsible supply of alcohol to minors in private settings. That would require a parent or equivalent adult to approve supply of alcohol to a minor, ensure that the quantity of alcohol supplied is not excessive, and that adequate supervision of the minor by a parent or equivalent responsible adult person is provided for the duration.
- b) Enforcement of the legislation should be based on an educative approach, rather than criminal sanctions, with the focus on changing behaviour and creating societal change. The use of diversionary options and counselling of parents should be investigated.
- c) Communication and education: passing of such legislation must be accompanied by a comprehensive communication and education campaign targeting parents and teenagers. The campaign would inform the target groups of the amended legislation; increase awareness of the risks associated with (unsupervised) teenage drinking; and provide practical information and skills to assist compliance.

- d) Research: the impacts of the introduction of the legislation should be closely evaluated and monitored to identify the effectiveness of the legislation, any unintended consequences and any amendments required.

Ends.

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