

PROVISION OF ALCOHOL TO MINORS

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Date Received: 19/10/2012

Partially Confidential



**Legislation amendment /
reform / creation proposal.
To combat social, health, safety, legal
concerns relating to teen alcoholism
involving social events in NSW and
Minor's Functions Authorisations.**

Preliminary report and proposal drafted by Elliot Kleiner,
Senior Partner at ELK & Sons Consolidated Pty Ltd
June 13th 2003.

Submitted to Mr Paul Bodisco, Senior Policy Advisor
to the New South Wales Premier the Hon Bob Carr.

Put forward as a submission by the
Commission for Children & Young People to the
NSW Alcohol Summit, NSW Parliament House 2003.

Amended for submission to Ross McCulloch
Department of Gaming & Racing November 10th 2007

Amended for submission to
The Hon Peter Debnam September 15th 2010

Amended for submission to
The Legislative Assembly Social Policy Committee Inquiry
into the provision of alcohol to minors October 31st 2012



Contents

This package contains five (5) separate documents that, when combined, represent our entire submission.

Document 1 (For public viewing) - Opening Statement

Inquiry into the provision of alcohol to minors - Terms of Reference

Document 2 (For public viewing) - A Snapshot of the Problem

Document 3 (For public viewing) - Submission to the Legislative Assembly Social Policy Committee Inquiry into the provision of alcohol to minors (preceded by the terms of reference)

Section	Page
Introduction	1
Liquor Act (2007)	
Section 117 (1) & Recommendations	2
Section 117 (2) & Recommendations	3
Section 117 (4) & Recommendations	4
Section 117 (6) & Recommendations	6
Section 118 (1) & Recommendations	6
Section 128 (1,2) & Recommendations	7
Section 129 & Recommendations	7
Summary Offences Act Section 11 (1,2,5,5A) & Recommendations	8/9
Summary Offences Act Section 11 (5B) & Recommendations	9

Document 4 (For public viewing) - Broader Proposal for the Upgrade of the Liquor Act 2007, as it applies to issues concerning Liquor and Minors

Section	Page
Contributors	1
Current N.S.W. Liquor Laws concerning School Formals	1
Facts about Minors and Liquor	2
Where does that leave us now?	4
The proposed upgrade concept	5
Enforcement	6
The media	6
Opposition	6
Support from the community	6



Contents (2)

Section	Page
Supporting procedures	7
Flowchart of the current state of venue licenses relevant to this issue	11
Legislation changes proposed:	
Detailed contents	1
Contributors & Sources of data	2
Biographical information on the author	3
Minors Functions Authorisations	4
Criteria for an authorisation	5
Responsibilities	6
Names Register	6
Ticketing	6
Event times	7
Reporting	7
Signage	7
Safety area	9
Security measures	10
Alcohol consumption assessment	11
Security guards	13
Prohibited articles screening	13
Authorised areas	14
Responsible Service of Alcohol Accreditation	15
The working with Children Check	15
Who else should be subject to the regulations	15
Only those authorised can conduct functions	16
Wording of terms and conditions	16
Policing and / or inspections	17
Inspection of venues	17
Inspection of Event Managers	17
Inspection of Minors Functions in progress	17
Solve the problem at home first	18
Education and Publicity	19
Dangerous and Problematic Retail Liquor Packaging	20
APPENDIX:	
Breath Analysis Devices	22



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DOCUMENT 1

OPENING STATEMENT

(approved for publication)

OPENING STATEMENT

Alcohol is harmful. "Minors and liquor" is a volatile mix.

If you're a teenage Minor, legally, you have only a chance walking into a nightclub to buy liquor. You have only a chance of walking into a bottle shop to buy liquor. You have only a chance of walking up to the bar of a Major International Hotel to buy liquor **BUT** If you want to drink enough liquor to kill you in one night, you only need to attend your own high school formal, pre-drinks and after party. The one night supposed to be sanctioned, organised and supervised by the very people who are charged with your safety and security.

On that night you can not only render yourself completely unconscious in a couple of hours, but you can also expect to vomit, defecate and urinate on yourself, engage in high-risk sex with multiple partners and be the victim of a high-speed car crash. If you survive at all, you'll likely remember nothing about it and do it all again 2 or 3 more times before heading to the Gold Coast to "Schoolies" so you can do it over and over for 2 more weeks with zero accountability.

If this scenario sounds dramatic, that's because it's true.



Inquiry into the provision of alcohol to minors

TERMS OF REFERENCE

That the Committee inquire into and report on matters relating to the provision of alcohol to minors by parents and guardians, specifically whether:

- a) provisions in the Liquor Act 2007, which make it illegal for persons to sell or supply alcohol to people under the age of 18 years, including in homes, parks, halls and public places generally, are sufficient;
- b) provision in the Liquor Act 2007, which provide that a person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor, remain appropriate;
- c) the defence against prosecution for an offence of providing liquor to a minor if it is proved that the defendant was authorised by the minor's parent or guardian to supply liquor to the minor, remains appropriate;
- d) there is broad community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors;
- e) New South Wales can benefit from experiences in other jurisdictions in relation to the provision of alcohol to minors by parents, guardians or responsible adults; and
- f) any other related matters.

COMMITTEE MEMBERSHIP

Mr Bruce Notley-Smith MP	Liberal Party	<i>(Chair)</i>
Mr John Sidoti MP	Liberal Party	<i>(Deputy Chair)</i>
Mr Troy Grant MP	National Party	
Ms Anna Watson MP	Australian Labor Party	
Ms Sonia Hornery MP	Australian Labor Party	



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DOCUMENT 2

A SNAPSHOT OF THE PROBLEM

(approved for publication)

Introduction:

An anecdotal snapshot of the problem.

The following accounts are not fabricated, assumed or embellished stories. They are actual events that have been witnessed first hand by professionals working in the School Formal Industry between 2000 and 2009. Nothing has changed since then.

All of the incidents mentioned here took place in the Sydney CBD at high-profile venues you would know.

A lovely young girl is all dressed up for her first ever High School Formal. She's very excited and has been planning this for months.

She has just the right dress, brand new, with shoes and handbag to match. Her hair is done after 3 painstaking hours at the salon. Her mother applies the finishing touches to her make up and nails.

As she looks one last time in the mirror before departing for the evening, she can't contain the smile – braces and all. She's fifteen years old and this is going to be the night of her young life.

Two hours later, the same girl is found face down, unconscious, in the urinal of the men's toilet at a major Sydney venue, covered in a wash of her own vomit and faeces.

(Note: This was not our event but was at another event inside the same venue premises and witnessed by our staff who were called upon to offer assistance)

What caused this? Six Bacardi Breezers given to her by her friend's mother at the "Pre Formal Drinks".

A chartered bus rolls over the Sydney Harbour Bridge at 6:30 one evening, loaded with teenagers on their way to their year 11 formal at a Major Sydney Hotel.

The bus driver has to open the windows to assist him in overcoming the smell of urine and beer as cases of beer are consumed at the rear of the bus in a little less than half an hour.

By the time the bus reaches Kings Cross, he has to stop at the Fountain as a dozen or so minors, male and female openly drop their pants and urinate in the fountain to the disgust of passers by who are compelled to write to the newspapers about it.

By the time they reach the doors of the function room, they are joined by a further 200 or so of their teenage friends and line up to be breath-tested by security.

Of 320 guests attending the event, over 200 of them had to be ejected from the premises after returning blood-alcohol readings of 0.15% and some as high as 0.18%. Most were between 15 and 17 years of age.

Of the 6 members of the responsible organising committee members, 4 were among the ejected.

The event went ahead and was a complete success for the few who got in.

(Note: This was our event)

What prevented this from being a complete tragedy? Strict Adherence to Minor's Functions Authorisation procedures.

A convoy of stretched limousines pulls up in the entrance of a Major Sydney Hotel. The porters assist with trolleys as the 16 year old Formal guests pile cases of beer and mixer drinks out of the boots to be taken in for their alcohol-free formal.

The only thing that stopped this from being a disaster was the security team working for the organiser who quickly intercepted them at the hotel door.

(Note: This was our event)

What prevented this from being a complete tragedy? Strict Adherence to Minor's Functions Authorisation procedures.

A fourteen-year-old girl is not exactly shocked when a security guard walks into the men's toilets at the formal to find empty bourbon bottles on the floor and her in the middle of unprotected sexual intercourse with an intoxicated 16-year-old male. Why is she not shocked? She's not fully conscious.

Why did none of the other boys in the toilet at the time assist her? Because they were preparing themselves to be next in line to have sex with her.

(Note: This was not our event but was anecdotal)

How did this happen? Insufficient security screening procedures at the venue. She also wasn't legally old enough to be attending.

In the middle of an Entrée course at a Major Darling Harbour Hotel year 10 formal, a 15 year old boy slumps over and falls to the floor for no apparent reason.

Security assesses him and applies basic first aid to assist his laboured breathing as it is ascertained that he's consumed an entire bottle of straight vodka on an empty stomach before arrival. That liquor was given to him on departure from home by his father.

He had his stomach pumped at hospital and his parents blamed the venue.

(Note: This was our event)

What could have prevented it? Strict Adherence to his parent's responsibilities under the law concerning provision of liquor to minors.

An intoxicated 17-year-old girl was ejected by security from her year 12 formal for rowdy behaviour as a result of the alcohol she'd consumed that had been served at the venue's bar.

Within 40 minutes the whole Hotel was evacuated onto a rainy street due to a phoned in bomb threat.

Her friends remaining at the function called her on a mobile phone and were overheard abusing her for ruining the evening for the rest of them by calling in the threat.

(Note: This was not our event but was described to us by management of the venue)

What could have prevented it? Strict Adherence to Minor's Functions Authorisation procedures.

A male youth refused entry to a year 11 formal for being intoxicated comes straight in the front door of the hotel later and viscously assaults one of the supervising adults, sending that person to hospital and the youth to the Police Lock Up for the night.

(Note: This was our event)

What could have prevented it? Strict Adherence to his parent's responsibilities under the law concerning provision of liquor to minors.

The doors open to the magnificent ballroom of a Major Sydney Hotel as the guests are invited in for their Year 12 Formal. Within 3 minutes, the School Captain is detained by security for dispensing illicit drugs and alcohol to minors inside the event.

(Note: This was our event)

What could have prevented it? Abolition from retail sale the type of liquor vessels used for smuggling.

An Event Manager is seen in a verbal altercation with an intoxicated High School Teacher. The cause of the argument? The Event Manager's refusal to serve alcohol under the restrictions of the venue's license.

(Note: This was our event)

What could have prevented it? Education about these regulations to parents and teachers.

A Major Function Centre is hosting a Year 10 Formal. Of course the clients requested that it be alcohol-free but somehow half the minor guests are intoxicated late in the evening. How is this possible? Because there was no method of separation between this year 10 formal, and the year 12 formal on in the other half of the venue where liquor was being freely served.

(Note: This was not our event but was described to us by management of the venue)

What could have prevented it? Minor's Functions Authorisation regulations being applied equally to all types of venues, regardless of license.

An 18-year-old male is asked to leave a year 12 Formal because he was seen by security passing hard liquor he'd obtained from the bar in another function taking place elsewhere in the property to his 3 female minor companions. After they were all breath-tested by security, he was found to have a blood-alcohol reading of 0.15%. Each of the 3 minors with him returned readings between 0.08% and 0.12%.

Despite all efforts by security to stop them, they all got into his car together and sped off.

(Note: This was not our event but was described to us by management of the venue)

What could have prevented it? Proper assessment as to the number of security guards required, dependant upon the prevailing conditions.

These scenes are played out day after day, year after year at hundreds of formals around the state. The clear message being conveyed to these teenagers is "Go Ahead! – Nobody Cares"



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DOCUMENT 3

**Submission to the Legislative
Assembly Social Policy Committee
Inquiry into the provision
of alcohol to minors**

(approved for publication)

Submission to the Legislative Assembly Social Policy Committee Inquiry into the provision of alcohol to minors, October 31st 2012 by Mr Elliot Kleiner of ELK and Sons Consolidated Pty Ltd.

My understanding of the purpose of the inquiry is to examine the current state of affairs and identify any anomalies or dysfunctions between the legislation and the practical reality, then make recommendations as to what action should be undertaken towards change of either the legislation, the application of it, or the communication of its facets to the public.

The reason why my opinion has been requested at this inquiry is due to my two decades of experience running minor's functions on licensed premises, mainly in the form of High School Formals. I have headed several companies and businesses that have not only been actively involved in the practical application of current liquor laws, but also in the accumulation of masses of credible data and statistical analysis of the market. During my submissions and recommendations, I will draw from experience in these areas and will therefore offer examples and data with references made specifically to events pertinent to the High School Formal phenomenon, which serves quite adequately to make my points clear.

One of the initial challenges I face concerning this inquiry is that the terms of reference are very specific to only one narrow area of the overall problem. If the inquiry is to bring any significant solutions into being, it will be necessary to widen the scope of the examination to include other areas of relevance both in the legislation and the occurrences in society, as they have affects both directly and indirectly on the specific items of concern facing the committee.

The way I've chosen to approach my recommendations, and the relevant terms of reference where applicable, is to refer to the 2007 amendments to the Liquor Act, as are currently published, and in each section mentioned, point to a relevant term of reference, declare the current state of reality, then make my recommendations as to what may remedy the dysfunction.

Liquor Act 2007

Part 7 Special provisions relating to minors (those aged under 18 years)

Section 117 Offences relating to sale or supply of liquor to minors

(1) Selling liquor to minors

A person must not sell liquor to a minor.

Maximum penalty: \$11,000 or 12 months imprisonment (or both), or an on-the-spot fine of \$1,100.

(Terms of reference – a/ provisions in the Liquor Act 2007, which make it illegal for persons to sell or supply alcohol to people under the age of 18 years, including in homes, parks, halls and public places generally, are sufficient;)

We surveyed several focus groups of young people ranging from 16 to 19 years in age, comprising a reasonable cross-section of people, both male and female, from a diverse range of socio-economic backgrounds, over a period of several years.

When asked the question “In the last 2 years, what percentage of your friends have you witnessed possessing and / or using false identification documents in order to obtain alcohol while underage?”; all participants stated a percentage number, (firstly demonstrating that all had), which when added together and divided by the number of participants gave us an average greater than 51%. The conclusion assumed from this is that greater than half of underage teenagers are actively using false identification, when identification or proof of age is requested of them, to procure liquor.

While recent changes to NSW drivers licenses has made it more difficult to alter or physically falsify details on the documents, this is like treating a compound fracture with a bandaid.

When asked the question “In the last 2 years, what percentage of your friends have you witnessed being served alcohol, either at licensed premises or retail outlets, without having been asked to produce any proof of age whatsoever?”; the averages were surprisingly higher than 82%. The conclusion assumed from this is that an alarming number of licensees are more than willing to sell liquor to minors without conscience.

The real problem is two-fold. 1/That the liquor industry is for the most part self-regulating, and 2/ That the penalties are seldom applied and when applied are so light that they offer no deterrent.

For a reality check, consider, as an example, that an on-the-spot-fine of \$1,100 for selling liquor to minors is laughable when you take into account that this represents only a fraction of the revenue that selling alcohol to minors generates in a single school formal season. Then consider that school formals represent only a fraction of the number of situations where minors would be attending licensed premises and drinking liquor every day of the week. One begins to see that current fines and chances of being fined represent no deterrent.

The question the committee asks is “Are the current laws adequate for halting minors acquiring and consuming liquor?” The answer is **no**.

My recommendations are as follows...

1/ Increase penalty amounts by many multiples.

2/ Offer generous monetary rewards for informants who provide credible evidence leading to licensee fines.

The costs associated with both policing and informant rewards would easily be offset by the revenue generated by fines. This process could, if properly architected, be both self-funding and even potentially offset any state tax revenue that may be lost as a result of a decline in liquor sales.

While it is in a licensee's commercial interests to sell as much alcohol as possible, having them on an "honour system" concerning who's money they will and won't accept is a concept that no reasonable person can see as plausible.

3/ Education. All RSA certified workers, from licensees right down to those serving customers must be somehow examined so as to be certain that they demonstrate a full and clear understanding of these laws.

4/ Police it. None of this makes any difference if it only appears on paper and nobody goes out into the field to enforce it personally.

(2) Supplying liquor to minors on licensed premises

A person must not supply liquor to a minor on licensed premises.

Maximum penalty: \$11,000 or 12 months imprisonment (or both) or an on-the-spot fine of \$1,100.

(Terms of reference – a/ provisions in the Liquor Act 2007, which make it illegal for persons to sell or supply alcohol to people under the age of 18 years, including in homes, parks, halls and public places generally, are sufficient;)

When searching for a solution to a problem such as this, seeking the right answers is less important than seeking the right questions. The question in this case should not be "Did someone supply liquor to a minor on licensed premises?" as much as it should be "What were minors and liquor doing on licensed premises in such proximity to each other facilitating the possibility that a minor could consume it?" The solution rests not in seeking someone to blame, but in how to prevent the issue altogether.

There exists a complexity in the reasons or situations where a minor may need to attend licensed premises. The vast majority of those reasons involve the minor being in the presence of Loco-Parentis. Examples may be restaurants, club bistros, social functions in event centres and hotels generally.

While the complexity of reasons why minors may be present on licensed premises, with Loco-Parentis, precludes the realistic possibility of preventing the phenomenon altogether, there exists two lines of defence that should theoretically prevent minors consuming liquor. 1/ Premises staff, who must not only refrain from service to minors but should also be vigilant and take reasonable steps to prevent it, and 2/ Loco-Parentis themselves who are equally, and possibly more so, charged with the responsibility of preventing service to minors in their care.

Arguably this scenario with two lines of defence should be a very safe environment for preventing minors consuming liquor, however this is reliant upon Loco-Parentis knowing, and premises staff caring, what takes place. In both cases, the reality of the situation is severely deficient.

The question the committee asks is "Are the current laws adequate for halting minors acquiring and consuming liquor?" The answer is **no**.

My recommendations are as follows...

1/ Increase penalty amounts by many multiples.

2/ Offer generous monetary rewards for informants who provide credible evidence leading to licensee or parent / guardian fines.

3/ Education. All RSA certified workers, from licensees right down to those serving customers, must be somehow examined so as to be certain that they demonstrate a full and clear understanding of these laws. In addition, those acting in Loco-Parentis should be reached via electronic media campaigns to properly educate them about the facts, their responsibilities, and what penalties they face when ignoring the laws.

4/ Police it. None of this makes any difference if it only appears on paper and nobody goes out into the field to enforce it personally.

(4) Supplying liquor to minors on other premises

A person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor.

It is a defence to a prosecution for an offence under subsection (4) if it is proved that the defendant was authorised to supply liquor to the minor by the parent or guardian of the minor.

Maximum penalty: \$11,000 or 12 months imprisonment (or both) or an on-the-spot fine of \$1,100.

(Terms of reference – b/ provision in the Liquor Act 2007, which provide that a person must not supply liquor to a minor on any premises other than licensed premises unless the person is a parent or guardian of the minor, remain appropriate;)

The specific example I will draw on for this section is one that paints a picture very clearly of the void that exists between the declaration and application of the law, and the void that exists between the wording of the law and the understanding that the public derives from it. The School Formal "Pre-Drinks" in private homes. This is where a large group of School Formal attendees will first meet at the home of one of the attendees, most often hosted by the parents or guardians of that attendee but without all of the other attendees having present their own parent or guardian, and liquor being served to all attending that gathering.

The wording of the act relevant to this section is so very vague that the general perception of the public is dangerously misdirected from that which the laws were written to achieve.

The spirit of the law in this section, as is my interpretation, is to permit a parent or guardian to serve an alcoholic beverage to their own minor dependant, in the safety and confines of the family home, for perhaps the teaching of the appreciation of an appropriate beverage to accompany a meal, or perhaps to teach the application of moderation, or perhaps religious purposes.

What the spirit of the law was NOT intended to mean was A/ Minors drinking to become intoxicated, B/ Minors drinking as a "right of passage", C/ Minors drinking with the full knowledge that they will subsequently attend licensed premises elsewhere or D/ Minors drinking WITHOUT the supervision or consent of their own loco-Parentis.

Unfortunately, all of the aforementioned A,B,C and D are the true reasons why liquor is being served to unaccompanied minors in these "Pre-Formal" events in private homes.

The results of this misinterpretation of the law include the minors travelling directly to licensed premises where School Formals are being conducted, and arriving intoxicated, or, having been granted liquor by adults at the “pre-drinks”, will take this to mean that free-reign is implied and will therefore detour via bottle shops and purchase and consume more liquor on their way to the Formal. In either or both cases, when questioned by staff at the Formal as to why they have arrived drunk, the sincere answer is most often that everything is fine because permission to drink was verbally granted or presumed from parents or other adults.

When these intoxicated minors are refused admission to their Formal, organisers are usually inundated with a barrage of angry and abusive phone calls from parents demanding explanations as to why their children are refused that admission, generally under the same impression that their own verbal permission should suffice and being very annoyed when told that this is not correct.

As to whether the current legislation is sufficient, I believe that it falls short. If the spirit of the law is that minors may be served liquor ONLY by their own parents in their own home, and that they should remain there after having done so, then it should say precisely that with no opportunity for ambiguity or interpretation to the contrary.

(Terms of reference – c/ the defence against prosecution for an offence of providing liquor to a minor if it is proved that the defendant was authorised by the minor’s parent or guardian to supply liquor to the minor, remains appropriate;)

This defence against prosecution is ridiculous in a practical sense.

It is argued that the spirit of the legislation allows for the service of liquor to minors at such home events where permission has been granted from one parent or guardian (not in attendance) for another (in attendance) to serve liquor to the minor of the former. This is completely impractical for several reasons. 1/ Such permission could not be given verbally as this could be later refuted in the event of some catastrophe. 2/ If it would therefore need to be given in writing, that would be so easily fabricated by liquor-seeking minors, it would be unenforceable and therefore worthless.

The purpose of the act MUST be, first and foremost, to protect minors from the detrimental affects of liquor. If we take our eyes off that and rewrite the law to, as the primary purpose, lay blame after the fact, the law has already been defeated. It is therefore most important of all to prevent the harm altogether.

(Terms of reference – d/ there is broad community understanding of the rights and responsibilities of parents, guardians and responsible adults regarding the provision of alcohol to minors;

The question the committee asks is “Does the community in general understand these laws and their responsibilities under them?”

The answer is **no**.

My recommendations are as follows...

1/ Augmentation of the legislation with wording and examples that are very specific in the areas that give rise to these problems.

2/ Removal of the portion of the legislation allowing service of liquor to other people’s minors when permission is given, or alternatively, adjustment stating the precise opposite of that, effectively disallowing such service of liquor to any minors other than one’s own, whether permission is given or not, and to state clearly that once minors have consumed liquor, they must remain at home in the custody of Loco-Parentis.

3/ Education. People don't read pamphlets or fact sheets unless they're actively seeking advice on a subject that they already acknowledge that they know nothing. A significant challenge here is that the current state of affairs is far worse than people "not knowing" what the laws are. The fact is that they believe they know the laws but what they think they know is so very wrong that it's more dangerous than knowing nothing.

Print media will not work here. Television and Radio at times strategically adjacent to School Formal season periods will produce a better result.

4/ Police it. None of this makes any difference if it only appears on paper and nobody goes out into the field to enforce it personally.

(6) Obtaining liquor for minors from licensed premises

A person must not obtain liquor from licensed premises on behalf of a minor unless the person is the parent or guardian of the minor.

It is a defence to a prosecution for an offence under subsection (6) if it is proved that the defendant was authorised to obtain liquor on behalf of the minor by the parent or guardian of the minor.

Maximum penalty: \$11,000 or 12 months imprisonment (or both), or an on-the-spot fine of \$1,100.

This is in direct conflict with another section above...

"(2) Supplying liquor to minors on licensed premises

A person must not supply liquor to a minor on licensed premises."

Section 117 (2) above and Section 118 (1) below were clearly written to prevent any scenario that facilitates a minor gaining access to liquor on licensed premises. Why would a separate section be introduced that directly undermines both by providing a defence to both? This renders all three sections senseless and unenforceable.

My recommendations are as follows...

Remove altogether the words from Section 117 (6) ***"unless the person is the parent or guardian of the minor. It is a defence to a prosecution for an offence under subsection (6) if it is proved that the defendant was authorised to obtain liquor on behalf of the minor by the parent or guardian of the minor."***

Section 118 Offences relating to consumption etc of liquor by minor

(1) Minor not to obtain, consume or carry away liquor

A minor must not:

- a. consume liquor on licensed premises, or***
- b. consume liquor on the premises of an unlicensed restaurant unless the minor consumes the liquor in the company of, and with the permission of, his or her parent or guardian, or***
- c. obtain, or attempt to obtain, liquor for consumption on licensed premises, or***
- d. carry liquor away, or attempt to carry liquor away, from licensed premises unless the minor was ordered or requested by another person to carry the liquor away from the licensed premises.***

Maximum penalty: \$2,200

Section 118 (1) d. is worded in a very dangerous fashion. *“unless the minor was ordered or requested by another person”*. The absence of specifics with regard to “another person” leaves an opportunity for a defence that is not implied otherwise. *“another person”* can be another minor, a licensee with a commercial interest at stake or in fact any completely unrelated person passing by at the time.

If the spirit of the clause is to imply that a minor can carry liquor away from licensed premises under orders from Loco-Parentis, which is senseless because it would conflict directly with other less ambiguously worded sections of the act, then it should say specifically that, however, it does not appear that this is the spirit of the clause.

My recommendations are as follows...

Remove the words *“unless the minor was ordered or requested by another person to carry the liquor away from the licensed premises”*.

Division 3 Other provisions relating to minors

Section 128 Minor required to provide information

(1) An authorised person may require a person who is reasonably suspected of being a minor and who, if a minor, would be committing an offence under this Act:

- a. to state the relevant person's full name, residential address and date of birth, and**
- b. to produce then, or at a police station within a reasonable time, an evidence of age document for the person.**

(2) A person who is the subject of a requirement under subsection (1) must not:

- a. refuse or fail to state his or her full name, residential address and date of birth, or**
- b. without reasonable excuse, refuse or fail to produce an evidence of age document that may reasonably be accepted as applying to the person.**

Maximum penalty: \$2,200

I have no opinions, nor recommendations pertinent to this section.

Section 129 Minor must not use false evidence of age

A minor who uses any document purporting to be an evidence of age document in order to gain entry to, remain in, or obtain liquor from, licensed premises, is guilty of an offence if the document is false in a material particular in relation to the minor.

Maximum penalty: \$2,200

I have no opinions, nor recommendations pertinent to this section.

liquor means:

- a. a beverage which, at 20° Celsius, contains more than 1.15% ethanol by volume, or**
- b. any thing that is not a beverage referred to in paragraph (a) but, for the purposes of sale, is held out to be beer or spirits, or**

- c. any other substance prescribed by the regulations as liquor.

minor means a person who is under the age of 18 years.

I have no opinions, nor recommendations pertinent to this section.

Summary Offences Act 1988

Section 11 Possession of liquor by minors

(1) A person under the age of 18 years is guilty of an offence if the person possesses or consumes any liquor in a public place, unless the person establishes that:

- a. the person was under the supervision of a responsible adult, or***
- b. the person had a reasonable excuse for possessing or consuming the liquor.***

Maximum penalty: \$20

My recommendations for this section are as follows...

1/ That the penalty of \$20 represents no deterrent whatsoever since the value of the fine is substantially less than the value of any liquor in possession.

2/ The wording "*under the supervision of a responsible adult*" is dangerous. Although the interpretation by the state as to what constitutes a "responsible adult" does appear in detail elsewhere in the liquor act, and that interpretation implies that a responsible adult is someone acting in Loco-Parentis, then further defining what is and is not acceptable under the law as Loco-Parentis, this is neither immediately adjacent to any of the sections of the act that require its definition to apply, nor is it easy to find for those who might seek it.

The perception that the general public derives from the words "responsible adult" is that this means any person over the age of 18 years who is behaving at the time in a socially acceptable fashion by their own judgement. This is most definitely not what I believe the act requires us to believe.

My recommendation here is to replace relevant words "responsible adult" and replace them with "Loco-Parentis", then make a note at a conspicuous place near each such entry referring to the specific section of the act defining in detail the concept of Loco-Parentis.

3/ Police it. None of this makes any difference if it only appears on paper and nobody goes out into the field to enforce it personally.

(2) A police officer may seize liquor in the possession of a person in a public place, if the officer suspects, on reasonable grounds, that:

- a. the person is under the age of 18 years, and***
- b. the person is not under the supervision of a responsible adult, and***
- c. the person does not have a reasonable excuse for possessing the liquor.***

I have no opinions, nor recommendations pertinent to this section other than the application of my previous recommendation concerning the term "responsible adult".

(5) A person may not be arrested for an offence under subsection (1), except so far as may be necessary for the purpose of the administration of a caution by a police officer in relation to such an offence.

(5A) A police officer who reasonably suspects that a person has committed an offence under subsection (1) may require that person:

- a. to state his or her full name and residential address, and***
- b. to produce then, or at a police station within a reasonable time, documentary evidence that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age.***

(5B) A person the subject of a requirement under subsection (5A) must not:

- a. refuse to state his or her full name and residential address, or***
- b. state a false name or residential address, or***
- c. without reasonable excuse, refuse or fail to produce evidence of age as referred to in subsection (5A) (b).***

Maximum penalty: \$20
public place means:

- a. a place (whether or not covered by water), or***
- b. a part of premises,***

that is open to the public, or is used by the public whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used and whether or not the public to whom it is open consists only of a limited class of persons, but does not include a school.

I have no opinions, nor recommendations pertinent to these sections.

Conclusion:

This inquiry has its work cut out for it. The liquor act is a large and complex document. While it tries to cover the most obvious aspects of what civilised society asks of it, the most vulnerable members of that society slip through the cracks that are left when legislation is poorly worded, fails to sufficiently cover shortfalls, or sections grind against each other in conflict or overlap. My recommendations are simple to affect and will serve to apply a good measure of protection to minors. That is a desirable start.

End of this section of submission relevant to this inquiry.



**Legislation amendment /
reform / creation proposal.
To combat social, health, safety, legal
concerns relating to teen alcoholism
involving social events in NSW and
Minor's Functions Authorisations.**

DOCUMENT 4

BROADER PROPOSAL FOR THE UPGRADE OF THE LIQUOR ACT 2007, AS IT APPLIES TO ISSUES CONCERNING LIQUOR AND MINORS

(approved for publication)

BROADER PROPOSAL FOR THE UPGRADE OF THE LIQUOR ACT 2007, AS IT APPLIES TO ISSUES CONCERNING LIQUOR AND MINORS

Before outlining the concept proposed, it is first appropriate to outline the existing environment. This will assist in bringing sense to the proposal.

For the purpose of this brief, I will only refer to those areas of the law as has been explained to me, in layman's terms, as are pertinent to the issue. These conclusions were reached after numerous meetings and communications with the following groups....

- The Office of Liquor, Gaming and Racing, including Chief Policy Advisers and Several Ministers
- The Liquor Administration Board
- The Licensing Courts
- Licensing Police
- The NSW Police Youth Liaison Division
- The Australian Hotels Association

Points that appear under "Facts" are not to be in any way considered either ambiguous or assumed. The statements are only made as a result of direct and personal experience and analyses of our own contact with the market.

Current N.S.W. Liquor Laws concerning School Formals:

- It is illegal to serve alcohol to minors on licensed premises.
- It is **legal** to serve alcohol to minors in certain places if you are acting as "Loco Parentis", including such service in ones own home.
- Any minor attending any licensed premises with any trace of alcohol in their system must be refused entry.

This section relates to venues operating under a "**Hoteliers**" liquor license.

- Any social function conducted in premises under a "Hoteliers" liquor license, where such function is likely to be attended by any number of minors, where any of those minors are NOT in the presence of "Loco Parentis" for the duration of the function, must only be permitted to occur if the license granted to that venue also has an additional appendix known as a "Minors Functions Authorisation".

To further clarify, "Loco Parentis" is accepted only to be a responsible adult of the minimum age that could possibly be biologically a parent to the minor, and that is directly charged with the safekeeping of that minor by the actual Parent or legal Guardian. For instance, a 16-year-old girl being escorted by her 19-year-old boyfriend is NOT accepted as Loco Parentis under the law.

To further clarify, "in the presence of" is described as not to be at greater distance than arms length from.

- If the premises licensed do not have a current Minors Functions Authorisation, then such functions are not allowed to occur at all.
- If a Minors Functions Authorisation is in place, and there is even a single minor attending the function without Loco Parentis, then no alcohol is permitted to be made available to any person, regardless of age or station for the duration of that event. All alcohol must be kept locked away.
- Under a Minors Functions Authorisation, many regulations also exist regarding things such as approved signage being displayed, pre-sold physical ticketing, minimum requirements for security operatives and licenses pertinent under the Security & Protection Industry Act, written notification to local Licensing Police, registers accurately kept as to the names of every person attending the event, the removal of cigarette machines from access pathways and so on.
- No function taking place under a Minors Functions Authorisation is allowed to exceed 12 Midnight before ending.
- A complete set of regulations exist under the heading of “Duty of Care”, which also include not turning away any Minor attending the event who arrives intoxicated, and taking steps to ensure their safety and security.

This section relates to venues operating under an “**On Premises**” liquor license.

- All functions may (generally) occur at whatever times the operator of the venue wishes and alcohol is freely served to any adult with unsupervised minors present for the duration.

Now that it has been established what the laws are in this regard, the **facts** can be stated.

FACTS ABOUT MINORS AND LIQUOR:

- Minors who want alcohol will go to almost any length to obtain it for their own consumption.
- Parents or Guardians of teenage minors are the people most often responsible for granting the permission and the means to consume alcohol in their own homes.
- The Australian “Tradition” of “Pre-Formal Drinks” has been embedded into the current high-school aged minors culture. This has occurred because people have chosen to interpret the legal ability to offer a drink to a minor at home, as free reign to assist minors to become intoxicated as part of their High School Formal experience, including minors of other parents not present.
- The problem is that this occurs where the parents are fully aware that these minors are on their way to attend licensed premises.
- Most minors granted alcohol by their parents before their formal, will consume further liquor before arriving at the event.
- Greater than 430 high schools operating in Sydney and the Greater Sydney area will have students leaving year 12 each year who will attend a formal as their graduating party.
- More than one half of those schools will also have year 10 students attending their formal.
- More than 20% of those schools will have year 11 students attending their formal.

- All calculated, there will be approximately 760 school formals taking place in Sydney each year.
- The average attendance at a formal is 196 guests.
- All calculated, there will be approximately 150,000 school formal tickets sold in Sydney each year.
- 86% of student committees refused official permission and support for the formal will go ahead and have one anyway.
- 94% of formals proceeding without school permission will be booked in the school's name.
- 92% of formals taking place each season are illegal in one respect or another due to one or several breaches of regulations or laws.
- 100% of those formals in breach would automatically be uninsured as a result.
- 6% of formals have parents as invited guests.
- 18% of formals have teachers as invited guests.
- 2% of formals have both parents and teachers as invited guests.
- At a year 12 formal, a substantial portion of the guests will be minors. At year 11 and 10 formals, almost all guests will be minors.
- Until 2001, greater than 35 major high-profile luxury 4 and 5-star hotels had each been actively selling high school formal packages for minors for many years. None of them had ever heard of a Minors Functions Authorisation or anything substantially similar to it. Most of them included complete alcohol packages in every formal they conducted. Some still do today, even though they now have the permits and those permits prohibit alcohol sale.
- Even though Licensees in possession of Minor's Functions Authorisations relevant to their premises may be fully informed about the legislation, the information relating to the restrictions and responsibilities pertinent to that permit seldom trickle down through the ranks of the management and staff to ever reach those on the front lines of sales, marketing and organising of minor's functions in those same venues.
- Minors will dress up this year and attend high school formals all over the state in liquor-licensed venues that will sell them alcohol with or without even holding permits to host the events at all.
- Over 80% of this year's formals would have already been booked and deposits paid before the end of April.
- Deposits are being taken as early as May for the following year's formals.
- Any minor attending a function, where alcohol is being served to adults, will gain access to that alcohol if he or she wants it. No procedure involving identification, wristbands, hand stamps, security guards, laws, regulations, signs, licenses, accreditations or anything else will stop that. The only thing that can prevent it is the total absence of liquor.

- Minors who are on the organising committees of high school formals, where those formals have been booked at premises operating under a Governors or Caterers liquor license, freely admit when asked that the motivating factor that swayed their decision from a hotel or other venue, however more suitable or even considerably cheaper, was the fact that it was far easier for minors to obtain alcohol at such venues as those that were permitted to sell it.
- Many of the venue managers asked why they refuse to operate their formals legally freely admit when asked that there is too much revenue to ignore minors as a significant portion of their alcohol patronage and high school formals are the perfect delivery system for realising that revenue. They further state that fines, if caught, are a mere fraction of the profits obtainable and they consider this a very minor risk for the returns available.
- The law relating to intoxicated minors arriving at licensed premises clearly conflicts with the laws relating to Duty of Care.
- Between 2001 and 2008 no fewer than 18 separate written "tip-offs" were delivered to City Central Licensing Police advising them of formals that were due to take place illegally at venues within their jurisdiction in coming days.

Of those tip offs, only one was acted upon. The attending police merely inspected the security license of the guard on the door and checked that no alcohol was being served.

The function was allowed to continue despite the fact that the venue had no authority to host the event and there were multiple suspected intoxicated minors in attendance.

Where does that leave us now?

These situations and facts present a fairly clear picture of the state of the market. It's clear that in the last 5 years, high-school formals have become recognised as a major industry and an important part of our culture.

The industry currently turns over almost \$200 Million per annum in Sydney alone and is showing a steady 9% average annual growth rate. Figures extrapolated out by average attendance in Years 10, 11 and 12, and calculated by numbers of secondary schools per state show that the industry nationwide is turning over around \$3.36 Billion per annum. It is suspected that given these figures, it can be assumed that more alcohol is being consumed in the school formal industry than the wedding industry, except that 80%+ of the guests at weddings are NOT minors.

The industry statistics DO NOT take into account peripheral events such as "Pre-Formal Drinks" and "After-Party Events". "Pre's" generally take place in private homes and it's reasonable to say that NOBODY conducting these events fully understands what the laws are, and they're being broken all over the state. Our interpretation of current liquor laws is that in NSW no minor is permitted on licensed premises after midnight, yet a significant illegal industry exists where "School Formal After Party Events" take place on licensed premises all over the state all through formal season and they're full of minors with direct access to alcohol. In such cases, the licensees are fully aware of the restrictions but they're also equally aware that the "potential" fine value, if caught and prosecuted, which none ever are, is less than a single event's revenue from such activities.

The unfortunate problem here is that the law, however carefully structured over the years, has not managed to keep up with the reality of the environment it was written for. It has become too segmented and too complex allowing those who seek to exploit any perceived ambiguity for their own financial gain at the price of the safety and security of children, free reign to do so, and those who think they're compliant are insufficiently educated to realise that 92% of them are not.

In terms of associated industries such as hospitality, event management and services supplied to this market, clearly there remains an imbalance. The fact that certain liquor licenses have been granted to venues that allow them far greater freedom to sell liquor has meant a vast and largely unfair advantage over others who do not have that freedom.

Major high-profile venues such as Hiltons, Novotels, Crowne Plazas, Sheratons, Stamfords Rydges and the like are extremely well equipped and appointed for the hosting of events like school formals. They are best suited for many reasons, geographical, procedural, legal and others. Yet these venues are being denied access to the larger portion of the school formal market simply because they are not permitted to sell alcohol at formals.

The less desirable venues such as restaurants, independently run function centres and freelance caterers, who have no framework for Occupational Health & Safety, no Duty of Care procedures, no Security & Protection procedures, no Public Safety procedures, who do not train their staff adequately and for numerous other reasons could be considered far less reliable in terms of the care of children, are the ones currently making a fortune out of the high school formal market. They aggressively pursue it. They can do this because they are granted licenses that permit the sale of liquor in these situations. Children flock to these venues because they can drink liquor.

There are two ways to remedy this imbalance. One way would be to allow the sale of liquor at these sorts of events equally across all venues. Clearly this would be a less than desirable option as it would open the floodgates for alcohol to be made more readily available to minors and would bring the Government under fire from numerous areas of the community.

The other way to go would be precisely the opposite direction.

THE PROPOSED UPGRADE CONCEPT

Although the introduction is long-winded, the proposal is simple.

The current legislation in place for "Hoteliers" Liquor licenses is a strong model. Prom Night Events has adopted it as policy and trialed it in the field for 10 years with absolute success. We have documented the success of the administration of these procedures on every event for the last decade and can produce figures, statistics, files and supporting material for all of it. It is unlikely that anyone else has produced a study of this phenomenon in any way so extensively, carefully, controlled and evidenced.

The proposed change would simply be to append this same set of regulations to **all** licensed premises, regardless of the nature of the liquor license held in relation to those premises, where certain functions are concerned.

The list of functions that would be appropriate for such regulations would include....

- School Formals (All years)
- Sporting Club Dinners
- Graduation Functions
- Scouting or similar Junior Social Club Dinners or Fundraisers
- Debutante Balls
- Class Reunions where the graduating class graduated less than 3 years prior
- Any other sort of function where the common factor between the guests is a direct or indirect association through an organisation attended by or for the benefit of minors
- Teen Birthday Parties or other similar parties

If such a set of rules were to be introduced across the state, and the market, it would eliminate any attempt to interpret the regulations to suit the wants of individuals who seek to gain from the act of stretching or breaking the law.

It should be noted that this proposal is not suggested to apply to functions such as weddings, religious celebrations or other “family” gatherings or functions.

Enforcement

As it is now, those who break the law not only place the safety and security of children in jeopardy, but they continually dominate the market and gross far higher earnings directly by doing so. A minor change such as this would bring about an equilibrium that would allow those who wish to remain in the industry to compete fairly on the strength of their products and services.

Any set of laws or regulations that are imposed, must equally be taught and subsequently enforced if they are to have any affect on the problem at all. As has already been demonstrated, the lack of education of licensees, and the subsequent failure to act sufficiently against those who fail compliance will only serve to waste the time of those who initiate the change. In short, this is easy enough to do but it cannot be a “toothless tiger” if it’s going to work.

The Media

The media has focussed huge public attention on this issue in the recent past. As each formal season approaches, news crews will be out seeking stories on what’s going wrong. The images are never pretty and they will not have to look hard to find ample examples of precisely what licensees would not wish the public to see.

By taking swift and decisive action to remedy this situation, well before the media sees fit to start questioning Government officials about the problem, can only be viewed as a good thing.

If the changes were comprehensive and swift, the media would be a powerful ally.

Opposition

The only place any potential opposition to such a change could come from is the licensees themselves. Any politician would be mad to oppose the reform of a major social issue such as underage alcoholism.

On that note, any licensee who makes sufficient opposing noise about the issue would draw criticism and suspicion as to what income he or she may have previously derived from this small area of the market, and by what means.

Such a plan, if carried out quickly and with all aspects addressed sufficiently, would be a fantastic political move and would win great favour with Mr Average Citizen.

Support from the community

If steps towards this type of change were initiated, one could expect support from the following groups....

- Various Religious Groups **
- Schools **
- The Department of Education & Training **
- The P & C
- The Australian Hotels Association **

- All Major Hotel Chains (we can assist with that support) **
- The Media
- The Security Industry Association Ltd
- The Australian Medical Association **
- Australian Institute of Health and Welfare
- The Association Of Children's Welfare Agencies
- NSW Commission for Children & Young People
- Youth & Community Services
- St Vincent De Paul Society
- The Salvation Army **

** - Indicates either those whom have either recently been vocal in the media about fixing this issue, or have indicated directly to us in talks that they would gladly support an initiative of this kind.

Supporting Procedures

As with any set of rules, a comprehensive set of procedures would need to be written in order to offer a strong example of what an event under strict compliance would look like. As we've already operated for several years under a set of guidelines stricter than those previously set down by Government, as to the appropriate method of operating a school formal, we offer our own experience, procedures and time to assisting in this process if required.

END Introduction.

The current state of the “Minor’s Functions” industry in NSW.

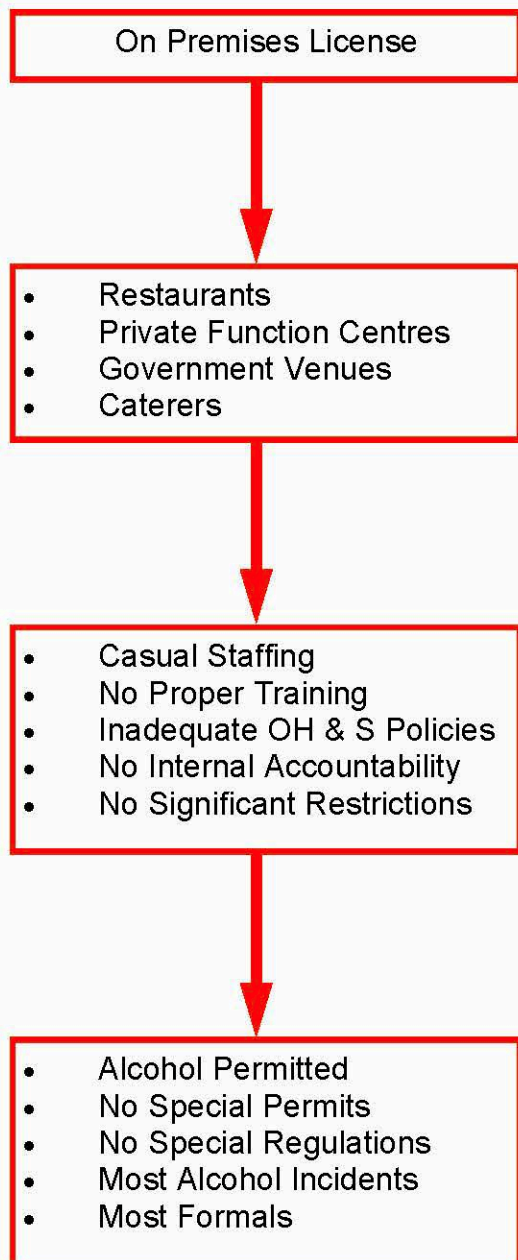
Those venues with the least restriction and the most freedom to sell alcohol at minor’s functions are those with the least proper procedures, training, accountability and are the least desirable venues to have such freedoms.

In contrast, the venues with the most infrastructure set in place and most widely practiced and heavily regulated and monitored procedures and legislation in place have no freedom to sell alcohol at all to the same market. These are the venues that are the most desirable to sell alcohol, if alcohol is to be sold at all, yet they are not permitted to do so despite outstanding records of compliance and the least liquor license-related incidents.

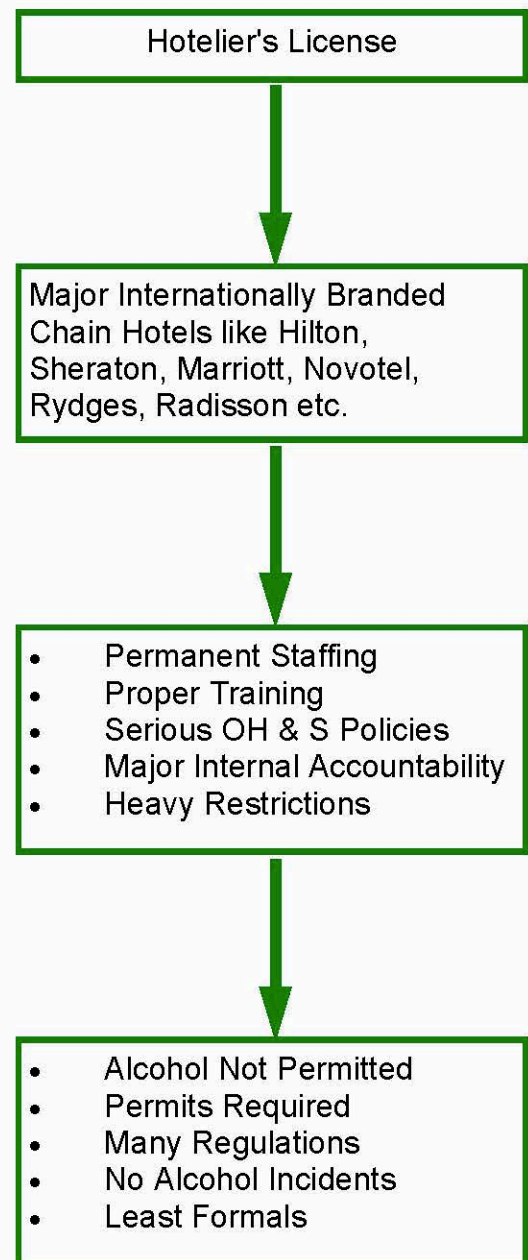
This is the furthest thing from a fair, just and competitive environment. There should be a single, blanket rule overall.

Noteworthy is that the state government owns a great many venues that fall in the “On License” category, while it has no vested interest in Hotels, therefore profits directly from the balance being tipped in its favour by the current legislation it administers. There is a considerable conflict of interest that exists here, albeit that this has not yet been discovered by the public or the media. It can be said, in the media’s fashion, that the government legislates in favour of itself profiting from the sale of alcohol at minor’s events when it simultaneously campaigns against teen alcoholism.

Least Appropriate Model



Most Appropriate Model



Contents

Biographical information on the author

Section 1 MINOR'S FUNCTIONS AUTHORISATIONS

Overview

Subsection 1.1a What kind of function should be subject to a Minor's Functions Authorisation?

Subsection 1.1b What criteria would a venue need to satisfy to be eligible for a Minor's Functions Authorisation?

Subsection 1.1c What responsibilities would fall on a venue, if granted a Minor's Functions Authorisation, to ensure that functions are conducted properly?

- **Names Register**
- **Ticketing**
- **Event times**
- **Event Reporting**
- **Signage**
- **Safety Area**

Subsection 1.1d What Security measures need to be implemented to ensure the safety and security of Minors attending an Authorised event?

- **Alcohol consumption assessment**
- **Security Guards**
- **Prohibited Articles Screening**
- **Authorised Areas**
- **Working with Children Check**

Subsection 1.1e Who else should be subject to the regulations of a Minor's Functions Authorisation?

Subsection 1.1f Only those authorised can conduct functions.

Subsection 1.1g Wording of terms and conditions relating to alcohol and other prohibitions on pertinent paperwork for clients.

Section 2 POLICING AND / OR INSPECTIONS

- **Inspection of venues**
- **Inspection of Event Managers / Organisers**
- **Inspection of Minor's Functions in progress**

Section 3 SOLVE THE PROBLEM AT HOME FIRST

Section 4 EDUCATION AND PUBLICITY

Section 5 DANGEROUS OR PROBLEMATIC RETAIL LIQUOR PACKAGING

This proposal was submitted to the New South Wales Department of Gaming and Racing by ELK & Sons Consolidated Pty Ltd on August 13th, 2003 in its original form.

Subsequent amendments were added in 2007, 2011 and 2012 after adjustments to interpretations of altered legislation, market statistics or industry terminology.

The following people herein contributed concepts or ideas for this proposal....

**Elliot Kleiner – CEO of Prom Night Events,
Director of ELK & Sons Consolidated Pty Ltd,
Director of The School Formal Show Pty Ltd.**

Helen Pinkerton – Operations Manager (Sydney) of Prom Night Events

Mandy Veis – Master Of Ceremony of Prom Night Events

Other Information sources include....

The New South Wales Department of Gaming and Racing
The Australian Hotel's Association
MINORS FUNCTIONS AUTHORITY – HOTELS, FACT SHEET 1.2
MINORS FUNCTIONS AUTHORITY – NIGHTCLUBS, FACT SHEET 1.3
FUNCTIONS AUTHORITY – REGISTERED CLUBS, FACT SHEET 2.3
SIGNS IN LICENSED PREMISES – FACT SHEET 6.4
Councils fact sheet June 08 (OLGR)
Exclusion from licensed premises fact sheet (OLGR)
L_FS_HL (OLGR)
Liquor Accords (OLGR)
Restaurant Licenses (OLGR)
sas_compliance_program (OLGR)
Signage (OLGR)
When is a license not required (OLGR)
Weapons Prohibition Act 1998 No 127
Commission for Children and Young People – Working with Children Check

Those areas of legislation mentioned within this proposal are those that the proposal seeks to suggest alteration or addition to. Those areas of legislation not mentioned are accepted as those that the proposal does not suggest an alteration or addition to.

Issues addressed where reference may have been made to regulations, laws, legislation or guidelines are referred to within an assumption or understanding of the meaning, spirit or intention of those regulations, laws, legislation or guidelines, as exists within the minds of those making submission to this proposal.

Suggestions or opinions expressed within this proposal have been considered with personal and direct experience as factors contributing to those suggestions and opinions.

Biographical information on the author Elliot David Ian Kleiner:

From 1979 to 1981, Elliot was trained in broadcasting at radio station 2SM in Sydney. The primary target market for this training was the demographic of ages 10 to 17 years. Elliot quickly became a known expert on teenage markets concerning music and entertainment.

In 1982, the New South Wales Police Public Relations division approached Elliot to act as a consultant. The requirement was to make submissions to the Minister for Police & Emergency Services (Peter Ryan), and the Police Commissioner (Cec Abbott) for the structure and launch of the **"Blue Light Disco"** programme, designed to offer teenage youth an alternative from licensed premises in problem regions around the state. The programme was launched according to Elliot's recommendations concerning marketing; equipment, logistics and event management and each of the first major events were equipped and logistically coordinated by Elliot. These events attracted up to 5,000 minors per performance and were a huge success. The programme still operates today.

In 1984, Elliot was headhunted by Capricorn Broadcasting in Queensland to capture their 10 to 17's age market in an evening radio programme designed specifically for teenagers. This was also a success. The station effectively doubled its listening audiences in both 10 to 17's and 18 to 25's age markets and quadrupled advertising sales as a result of Elliot's contributions to programming, syndication and outside broadcast activities.

In 1986, Elliot gained extensive experience working as a Licensed Private Inquiry Agent, and Security Operative in Sydney. He became Ordinance Quartermaster for 2 Sydney Security Companies as he was regarded as well versed in the area of dangerous weapons. He also gained recognition in higher echelons of the security industry as a consultant to representatives of the Jewish Board of Deputies in matters of Anti-Semitic Activism in New South Wales.

In 1989, he launched a successful function-services supply business and spent the following years gaining extensive experience in the high-end functions market, including being a consultant on event logistics to most of the major 4 and 5 Star hotels in the Sydney region.

In 1996, Elliot began work on a project concerning teenage functions in alcohol-free environments and soon went into trials of specific areas of logistics, target marketing and venue consultancy with a view to creating the ultimate "packaged" Event Management system for High School aged Minors. This was to eventually become Prom Night Events.

In 2000, Prom Night Events emerged as the New South Wales market leader for the planning and operating of legally compliant High School Formals and Graduation Functions in New South Wales.

In 2002, Prom Night Events purchased a rival firm known as "schoolformal.com.au" and effectively became the largest supplier of Event Management products for the High School Formal Market in New South Wales.

In 2003, Elliot sought assistance from the Victorian State Government by way of their officials reviewing Prom Night Events procedural guidelines with a view to upgrading them to make them compliant with Victorian legislation. The intention was to adjust the operating policies and launch the concept in Melbourne. The Victorian State Government wrote back to Elliot indicating that the Prom Night Events procedures would require no adjustment and Victoria would welcome our participation in that market.

Elliot Kleiner is an expert in functions and major events, major venues, event security and teenage marketing. There is no other person in this state with his level of experience in conducting every aspect of High School Formals.

Elliot is an expert in function security measures including communications, crowd control, psychology of teenagers and their issues, concealable weapons and alcohol-related incidents at venues.

Today, Elliot is considered the consultant of choice for the media and is first contact for media agencies wishing to conduct any story relating to the High School Formal market.

Section 1

MINOR'S FUNCTIONS AUTHORISATIONS

Overview:

The current regulations in place concerning functions and events taking place in venues operating under an "Hoteliers" liquor license are largely of good foundation. It is our proposal that these existing regulations be adopted as a base, further enhanced to incorporate some new features, then applied to the entire function venue environment overall.

Subsection 1.1

What kind of function should be subject to a Minor's Functions Authorisation?

The list of functions that would be appropriate for such regulations would include....

- School Formals (All years)
- Sporting Club Dinners (for sporting organisations and / or teams where participants are minors)
- Graduation Functions (up to and including 1st year tertiary)
- Scouting or similar Junior Social Club Dinners or Fundraisers
- Debutante Balls
- Class Reunions where the graduating class graduated less than 3 years prior
- Any other sort of function where the common factor between the larger portion of the attending guests is a direct or indirect association to or through an organisation or institution attended by, or for the benefit of, minors
- Teen Birthday Parties or other similar parties

It should be noted that this regulation is not proposed to apply to functions such as weddings, religious celebrations or other "family" gatherings or functions.

Under this proposal, there exist some circumstances that arguably can create an imperfect result where certain functions may fall under this proposed set of regulations. It is the intention of this proposal to take into consideration the degree or level of problematic incident potential and suggest the course that is least likely to result in such a problem.

An example would be....

Why would weddings, religious celebrations or other "family" gatherings or functions be exempted from a Minor's Functions Authorisation when clearly minors would attend such functions and, in most cases, alcohol would be served?

In cases such as these, the issue created by any regulation imposing a ban on alcohol at such events could be considered a stifling of religious or cultural freedom. The ramifications of that could be considered to contain an "unacceptable level of damage". The fact that, even at worst case scenario, the ratio of minors attending such functions as opposed to supervising adults would fall well within what would be considered reasonable.

While maintaining an outlook that includes a measure of realism, it would be naïve to assume that no minor would ever gain access to alcohol at a function such as this but the number of potential incidents that may occur in such cases would represent no significant concern. This scenario would be considered to contain an "acceptable level of damage".

A different viewpoint....

Why would 18th Birthday parties NOT be exempted from a Minor's Functions Authorisation?

While maintaining that similar outlook that includes a measure of realism, a party such as this will most often have a disproportionate ratio of minors attending to supervising adults. Certainly the number of

parents that would normally attend a party of this type will be far less than minors; therefore this would not be the type of function where the responsible supervision of minors and alcohol will be practicable.

In a completely different direction, the exemption of an 18th birthday party from a Minor's Functions Authorisation would create a loophole in the regulations that would easily be exploited by disreputable venue owners and also those who seek alcohol at functions with attending minors.

An example would be....

A school committee made up of students seek a booking at a function venue and are told that a "school formal" would be regulated as a Minor's Functions Authorisation function, therefore, no alcohol would be permitted. If however the title of the function were changed from a "School Formal" to an "18th Birthday Party", despite there being no other alterations to the requirements or situation, then this would not be a Minor's Functions Authorisation function and alcohol would be permitted.

Within a short time we would see a pronounced downturn in the number of high school formals taking place and an equally opposite upswing in 18th birthday parties, yet the problem of minors accessing alcohol would remain. This scenario could be considered to contain an "unacceptable level of damage".

Subsection 1.2

What criteria would a venue need to satisfy to be eligible for a Minor's Functions Authorisation?

A venue should satisfy certain requirements in order to be a fit and proper place for events to occur where minors are likely to attend.

It should be noted that not all venues suitable for holding minor's functions are necessarily licensed for service of alcohol. There are many fine venues without bar facilities that should not be discounted as eligible for a Minor's Functions Authorisation.

Alternately, there are many reputable venues licensed to serve alcohol that are completely unsuitable for minor's functions and therefore may not be eligible for a Minor's Functions Authorisation.

For these reasons, and various others, it is necessary to make an impartial and comprehensive assessment of each venue individually when an application for a Minor's Functions Authorisation is submitted.

As it is currently, only those venues already granted liquor license might apply for a Minor's Functions Authorisation, which would effectively be an appendix to the existing liquor license. Our proposal is that any venue, regardless of existing liquor license status, may make an application for a Minor's Functions Authorisation and each should be granted a procedure of assessment based on the features and merits of the individual venue.

Some of the things that should be taken into consideration for each application include....

- Location
- Proximity to hazardous environments (i.e.: bodies of water, freeways etc)
- Proximity to residential dwellings
- Internal layout, access and exit points in relation to the authorised areas
- Common areas (such as where the public or guests attending other functions may congregate in proximity to minors)
- Catering and Kitchen facilities
- Security and safety equipment and procedures
- Vehicular access
- Staff and management, training and experience policies relating to Occupational Health & Safety

- Internal proximity and security of such things as public bars, bottle shops, tobacco vending machines, gaming facilities.

In addition to these mostly physical attributes, additional screening should be conducted to determine the history of the venue, i.e.: have there been matters referred to Police or other regulatory bodies in the venue's history that relate in any way to the attendance of minors? What suggested changes or additional regulations, specific only to that venue, might be imposed to ensure compliance?

Subsection 1.3

What responsibilities would fall on a venue, if granted a Minor's Functions Authorisation, to ensure that functions are conducted properly?

Again, we refer to the current Hoteliers License model for some of the appropriate guidelines.

A/ Names Register: The current regulations stipulate that under a Minor's Functions Authorisation, a register should be kept of the names of all minors attending an event. In theory, that makes sense but it's not possible in practise, mainly because many minors have no method of positive identification. A more practical method of ensuring a more comprehensive compliance with this regulation is simply to keep a register of the names of all guests attending, regardless of age.

This presents a different set of problems. Not all guests, of all ages, attending an event under a Minor's Functions Authorisation would carry suitable identification. In addition to that, once the number of guests attending an event of this type reaches a certain level, it may become too laborious a task to register each of them, as this may take longer than the event would run for.

It is fair to stipulate that although it may never be possible to keep an entirely accurate register of the names of guests at a function, legislation could be worded to offer some degree of reasonable flexibility in such a way that "reasonable efforts to acquire" such a list might be described.

B/ Ticketing: One of the other stipulations under a Minor's Functions Authorisation is that guests attending such an event may not simply attend without prior notice, therefore all admissions to the event must be purchased or booked by a pre-issued method of ticketing or similar device.

It is our proposal that the most effective method of compliance with these two very important regulations should be to combine them into one action.

The way we have devised and trailed most effectively is to have the organising person or body. Responsible for booking and administering the function present a register of the names of the guests attending the event, to either the venue or the Event Manager, and use that list to dispatch tickets to the client, each with the individual guests name printed on it and a marking indicating that the ticket is not transferable, and that the details printed on it are not subject to alteration.

The way the system would work at the event is simply to collect a ticket from each individual guest upon arrival and use the names on the tickets to validate a corresponding name on the guest list, or alternatively, have some electronic method of scanning or otherwise registering the ticket so as to create a digital representation of such an attendance list. This way the function would have available a list of the names of each guest who was issued with a ticket, and a crosschecked list of those who actually attended the event. It is suggested that, for the purpose of accuracy and correct interpretation of the contents of such lists, that it be made compulsory that they be kept or presented in a typed or digital format and not hand-written.

The ticket may also serve to provide attending guests with other pertinent information such as the date and time of the event, location and a compendium of conditions upon which their admission may be granted, withdrawn or refused.

C/ Event times: Under a Minor's Functions Authorisation, events should not exceed 12 Midnight in duration. This should remain as an appropriate timeframe.

As minors may exit a nighttime event, the possibility exists that they may decide to wander off into the night without suitable supervision or protection. It remains important that a suitable hour is maintained for their exit where such street traffic and business exists as to offer them access to transport and, if needed, assistance of other kinds.

If the hours were not regulated, there could exist a situation whereby minors may find themselves in remote locations at 2 or 3 AM without any transport or assistance.

D/ Event Reporting: Under a Minor's Functions Authorisation, it is necessary for the licensee of the venue to inform local Licensing Police prior to the event taking place.

Again, in theory, this is a good foundation albeit a haphazard reporting method seldom used and with insufficient detail reported, if reported at all.

Our proposal is that a definitive and accurate reporting system be initiated, utilising options of electronic methods such as a web site form handler, facsimile transmission, or mail to report precisely the necessary details to a single, central office or location without the need to identify which satellite Police representative is pertinent to the venue or the event.

The details proposed as necessary to be provided should include....

- Event Date
- Times the event is set to take place
- The type of event
- Location and name of venue
- Minors Functions Authorisation ID number or relevant License / Permit number
- Contact details for the venue
- Name and location of authorised area being used within the venue
- Approximate number of guests attending
- Number of licensed security operatives rostered to attend
- Name and contact details of Security Firm contracted (if from outside)
- Name and contact details of Event Manager conducting the event (if any)
- Name of organisation connected to the event (if any)
- Name and contact details of client responsible for booking the event
- What other events may be taking place in the same venue at that time

It would be necessary for such reports to be submitted not less than 7 days prior to each event.

The responsibility of the central office collecting such reports would then be to direct the information to the Licensing Police pertinent to that venue.

By centralising a collection point for such reports, and enhancing the method of reporting to include all pertinent details with a choice of simple submission methods, the system would become streamlined resulting in accurate reporting. In short – by making it easier for the venues and Event Managers, information will actually be submitted and make it where it needs to go efficiently.

E/ Signage: Under a Minor's Functions Authorisation, certain signs must be displayed conspicuously at certain places within the venue as a notification to function guests as to where they can and cannot go, and what they may or may not do.

Currently, there are only two signs, neither one regulated by legislation as to the wording. It is our proposal that the wording of these signs be made mandatory by legislation and that the clarity of the intent in the wording be rock-solid.

One intended for the entrance to the authorised area is suggested to read as follows....

“NO LIQUOR IS TO BE BROUGHT INTO THIS AREA”

There is a measure of ambiguity associated with this wording as it may be taken to imply that the word “Liquor” only relates to hard spirits. Further to that, the words “brought into this area” may be taken to imply that, although none may be brought in, that liquor may already be available inside.

Our proposal is that the first portion of this sign be altered to read....

“ALCOHOL IS NOT PERMITTED AT THIS EVENT”

By stating this so, it would serve to remove any ambiguity and clarify the fact that the word “alcohol” means all alcoholic substances and the words “not permitted at this event” clearly mean that no alcohol will be available in any form, at any time, in any area or by any method related to the function they are attending.

The second sign for posting in all areas minors are forbidden is currently suggested reading as follows....

**“STOP! MINORS ATTENDING A FUNCTION
ARE NOT ALLOWED TO ENTER THIS AREA”**

This sign has no practical use in a venue, as this would be almost every other area of that venue. If you could imagine a function room within a major hotel being the area authorised for a minor's function, there would have to be signs in almost every direction you could look forbidding access by minors. All bars, restaurants, other function areas, occupancy areas and so on, would have to display these signs.

The very reason why this type of sign is never displayed at all is because no venue has the wish to waste time and resources to hang and remove a multitude of such signs each time minors enter and depart their establishment. The aesthetic factor would also realistically play a role in their decision to ignore the proper use of such a sign.

Our proposal is that a more effective wording be added as a second line to the existing sign described above, which would serve the desired purpose and be more reasonably regarded and therefore utilised effectively. It would read as follows....

“ALCOHOL IS NOT PERMITTED AT THIS EVENT.

**ONCE YOU EXIT THIS AREA, YOU MUST
IMMEDIATELY EXIT THE PREMISES ALTOGETHER.**

RE-ENTRY TO THIS EVENT WILL NOT BE PERMITTED.”

This sign would serve to explain to attendees of the event that, in addition to there being no alcohol permitted, that they are bound to remain inside the authorised area only during their visit to the venue.

This would effectively replace the necessity for all other areas being marked as not admissible to minors. It would further eliminate any ambiguity that may be taken to imply that function guests may come and go as they please to and from the function.

It is proposed that such a sign only be displayed at times when a Minor's Function is in progress.

In addition to this list of suggestions relating to signage, it might also be suggested that any venue granted a Minor's Functions Authorisation also display that authority in a conspicuous manner at the entrance to the authorised area.

F/ Safety Area: This concept is completely new; in so much as there exists nothing we can find in legislation about this issue. What is not new about this concept is that we have been using it most successfully for more than a decade and have proven that it works.

According to our understanding of legislation relating to Minor's, alcohol and licensed premises, if a Minor attends a venue, such as a hotel, with the intention of attending a Minor's Function inside that venue, and that minor, upon arriving at the authorised area, is found to be intoxicated before entry to that authorised area, then that minor is supposed to be refused entry to the event.

If, however, that minor is then turned away from the event, there becomes a situation whereby that minor may be placed in danger by being released from the premises while in an intoxicated state, creating a "duty of care" problem for the venue and organisers.

Our proposal, based on many years of completely successful trials, is to impose a procedure whereby each authorised area must also set aside an additional, separate, secured area to the function space being used for the minor's event.

The purpose of this additional "safety" area would be for the safe and secure hosting of such intoxicated minors until any one of a number of situational changes, and decisions based on those changes, is reached.

It should be noted that, in order to avoid any potential breach of a minor's civil liberties, that such a safety area would be attended by an intoxicated minor as a matter of choice or free will and not detention of any kind.

When a minor is determined to be intoxicated but lucid enough for making decisions, that minor would be given an option of either leaving the premises altogether.

OR

Given the alternative option of attending the safety area for further assessment.

If the intoxicated minor decides to accept the option to leave the premises, then it would immediately become the joint responsibility of both Security staff, and Venue Staff to offer that minor an additional 2 options.

The first option would be to have the minor's parent or guardian attend the venue to collect the minor. The responsibility of Security and Venue Staff would then be to escort the minor to the Safety Area, take down the contact details of the parent or guardian, make contact with them, explain the situation, and request their attendance as soon as possible. Upon that parent or guardian's arrival, the minor could then be taken from the safety area by their parent or guardian, and the duty of care would have been satisfied.

Alternatively, the second option would be where the intoxicated minor chooses to depart the premises alone, at which time the responsibility of both Security and Venue Staff would be to undertake reasonable steps to make suitable arrangements for transport, such as taxi or other suitable transport as can reasonably be made within the situation, and escort that minor to that mode of transport.

If, on the other hand, when assessed, a minor is found to be intoxicated but not lucid enough to communicate a valid decision, the responsibility would be that of Security and Venue Staff to take reasonable steps to making immediate arrangements for the safe transport of that minor to a hospital or medical facility without delay. All efforts should then be made to question other guests at the event to gain information on the intoxicated minor so as to ascertain the contact details for the minor's parents

or guardian. Contact and explanation of the situation should then be initiated. Once again, the duty of care is satisfied under such circumstances.

If an intoxicated minor makes the decision to remain in the safety area, there should then be a procedure initiated in the following manner....

Firstly, a security guard would secure the safety area. The duty of the security guard would be to refuse entry into the safety area of any other person, unless another intoxicated minor also being placed there for similar reasons, venue staff member or other official.

Next, the minor should be offered some form of dry foodstuffs and soft drinks in order to assist in absorbing and diluting alcohol already ingested.

Next, set periods of re-assessment, say each 15 minutes, would be conducted to determine if the level of intoxication is improving or declining.

If, after any number of reassessments, the level of intoxication has been reduced to a point where the judgment of the security guard is such that the minor may join the function, then the minor is allowed into the event and duty of care is satisfied. Although a minor has then attended a Minor's Functions Authorisation function after having ingested a measure of alcohol, there is no chance that any further alcohol would be accessible, therefore, since a meal is immediately being served, that minor will only become more and more sober. This scenario would be considered to contain an "acceptable level of damage" under these circumstances.

If, however, the level of intoxication only increases, then the original procedure of exiting that minor from the premises safely takes precedence.

In either case, the safety area becomes an integral part of conducting these events properly and should be made compulsory, along with procedures for its use.

As to the aforementioned "assessment" procedure for levels of intoxication, we will elaborate upon this issue within the following "security" section of the proposal.

Subsection 1.4

What Security measures need to be implemented to ensure the safety and security of Minors attending an Authorised event?

This is probably one of the most complex and important areas of this proposal. This will encompass many issues, some of those issues relate to other issues in other areas of this overall proposal.

Once more, the Hotel Minor's Functions Authorisation has sections of regulation that are a good foundation. This proposal will elaborate on them and offer suggestion for enhancement and addition.

Our proposal is that Security Guards must attend each Minor's Function. Currently, the requirement is that there be not less than 1 guard per 100 guests and that at least 1 guard should be present on the premises at least 1 half hour prior and post event operating times. All of this is also part of our proposal. The following is where we suggest significant augmentation.

Where the regulation stipulates that 1 guard per 100 guests, we suggest that there is a measure of ambiguity open to interpretation. Our suggestion would be that an additional guard should be rostered to an event each measure of guests above 49 per hundred, i.e.: for a function totaling 100 guests, 1 guard is sufficient, for a function totaling 149 guests, 1 guard remains sufficient, for a function totaling 150 guests, 2 guards becomes mandatory up to 249, then at 250 3 guards and so on. Although this may help to solve potential ambiguity in current regulations, it remains insufficient for the purpose of the exercise of determining the correct number of guards to cover the area.

Our suggestion would be that more complex criteria be developed incorporating factors of uniqueness to each venue. These might include...

- Total floor space being covered
- Number of entrances / exits & fire escapes
- Whether there are stairs or elevators in and out of the area
- Whether toilets are exclusive or shared with the public
- Whether public areas need to be walked through for either access or egress by guests
- The maximum guest capacity of the venue
- The geographic location of the venue
- The venue's position in respect of proximity to potentially dangerous places nearby
- The proposed floor plans or layouts being used for such events

Once each of these factors is taken into account, it can be part of the submission process to answer these questions when applying for the Minor's Functions Authorisation. Then the number of guards required could be assessed and be made known upon the granting of the permit as a condition specific to each venue, based on the specific needs of that venue.

Current regulations also stipulate that Security Guards must be licensed under the New South Wales Security and Protection Industry Act and hold valid license classes relevant to the protection of persons and property. In addition to this, our proposal is that any guard rostered to a Minor's Function should also possess valid First Aid certification, including C.P.R. requirement, Working with Children Check clearance and Responsible Service of Alcohol Accreditation.

We propose that, if Security Guards operate in plain clothes, that they display conspicuously their valid Security License on their person during all duty hours. In the case of those security companies that hold an exemption to this rule under certain circumstances, it is our proposal that it be made compulsory on Minor's Functions, overriding any such exemption.

Where the previous section refers to "assessment" of minors, as to their level of possible intoxication, our proposal includes a method of removing any ambiguity or potential for poor judgment.

A/ Alcohol consumption assessment: It is important to assess guests, particularly minors, as they arrive at a Minor's Function, in order to determine if any of those minors may have consumed alcohol prior to their arrival. Unfortunately, the methods of making such determination by visual and verbal assessment are flawed and largely inaccurate, leaving them open to argument. This may be sufficient for the purpose of assessment as to whether an adult may be suitable for entry to licensed premises, or whether an adult may be permitted service of alcohol but certainly deficient in determining if a minor has consumed any alcohol at all, and if so, how much.

For accurate and definitive assessment, it was the suggestion of Mr Greg Fuller, the then Chief Policy Advisor of the New South Wales Department of Gaming and Racing in 2001, that we employ the use of hand-held electronic breath analysis devices for the purpose of determining whether or not alcohol had been recently consumed.

This suggestion was put into trials in September of 2001, then subsequently on all events since and has proven to be a quick, accurate, safe and easy-to-use method of making a definitive assessment as to the presence of recently consumed alcohol in the systems of minors attending Minor's Functions.

Details of the device type we use, special additions to the device, and testing report as to the accuracy of the device are detailed in **appendix 1** of this proposal.

The results of the implementation of this device on all functions conducted by this management since September 2001 have been most agreeable. The use of the device, and a corresponding method of notification to all Minor's Function guests that it will be present and utilised at all functions has dropped

the incidents of Minors consuming alcohol prior to Minor's Functions conducted by us by the following statistics... (Chart based on first 10 Minor's Functions each year)

Year	Function #	Number of attending Guests	Number of Minors found to have consumed alcohol prior to arrival
2001 Introduction of device	1	332	221
2001	2	75	2
2001	3	133	0
2001	4	120	0
2001	5	238	5
2001	6	236	1
2001	7	246	1
2001	8	183	0
2001	9	90	0
2001	10	236	0
2002	1	200	0
2002	2	84	0
2002	3	194	0
2002	4	238	0
2002	5	139	1
2002	6	91	3
2002	7	257	1
2002	8	211	1
2002	9	70	0
2002	10	134	0

This statistical information demonstrates that the use of breath analysis devices dramatically reduces the incidents of minors consuming alcohol prior to events.

The use of the devices is not the cause of the sensational change in trends alone. If one studies the first function where the devices were introduced, and the subsequent functions, the date of the first function was two days prior to a major media blitz resulting directly from, and referring directly to, the use of these devices at that particular function.

It can only be concluded that the media, in that case, served to be a vehicle for conveyance of the message to Minor's, and their parents, that the use of such devices would create an environment where any minor with alcohol in their system would most definitely be detected. It worked with greater efficiency than we had ever anticipated.

It is our proposal that either this method, or other similar and equally practical and accurate method of assessing whether alcohol has been consumed be made compulsory on Minor's Functions.

Further to the implementation of the use of such devices, we further propose a procedure for the proper use of the device, and accurate reporting and record keeping of the results of the use of the device. (See **appendix 1** of this proposal).

As described in Fact Sheet 6.4 relating to Signs in Licensed Premises, we refer here to a sign that we believe is a good model for display at Minor's Functions where hand-held breath analysis devices are being utilised. The current mandatory sign reads...

"IMPORTANT INFORMATION ABOUT BREATH TESTING

READINGS GIVEN BY THIS INSTRUMENT ARE NOT ACCEPTED BY THE POLICE OR THE COURTS. YOUR BLOOD ALCOHOL LEVEL CAN RISE FOR 1 HOUR OR MORE AFTER YOUR LAST DRINK."

We propose that, this sign could have an addition to the wording that would make it more appropriate for Minor's Functions. It may read as such...

"IMPORTANT INFORMATION ABOUT BREATH TESTING

NEITHER THE POLICE, NOR THE COURTS ACCEPT READINGS GIVEN BY THIS INSTRUMENT. YOUR BLOOD ALCOHOL LEVEL CAN RISE FOR 1 HOUR OR MORE AFTER YOUR LAST DRINK.

**YOU ARE WITHIN YOUR RIGHTS TO REFUSE THIS TEST.
YOU MAY BE REFUSED ENTRY AT THE DISCRETION OF THE MANAGEMENT."**

We feel such wording would serve to protect the civil rights of the individual who may wish not to submit to such breath analysis and equally protect the right of venues and Event Managers to maintain control over who may or may not attend their events.

It is our proposal that, should the aforementioned breath analysis devices be made compulsory under the circumstances described, that such signs would also be made compulsory to be displayed in the fashion described in the aforementioned fact sheet.

B/ Security Guards: Security Guards rostered to operate on a Minor's Function should have a minimum requirement for the duties they must perform.

Our proposal is that there be a checklist of duties and procedures that can be easily followed in order to satisfy the specified requirements.

We offer a model of our own security procedures as a proposed guideline. (See **appendix 2** of this proposal).

It is important that there be no restriction placed by a Minor's Authorised venue on a client or Event Manager to use a particular Security Guard, or Security Company, either from within the venue, or contracted from outside.

Our experience in the market has been that certain venues will make policy that exclude any outside Security Guard from being permitted to work on a function booked by a client, mainly due to commercial reasons such as a profit margin being placed on the cost of the security service.

It is our proposal that there be no such restriction permitted so long as the security operatives that actually work on a Minor's Function comply with all necessary requirements for licensing, equipment, manpower numbers, procedures and regulations set down by the Government under any pertinent acts.

In fairness to the venues, it should further be required that all necessary proof of said compliance be made available from Security Staff or Security Providers to Venue Management or Event Managers upon request.

C/ Prohibited Articles Screening: For the purpose of this proposal, it must be noted that when we refer to "Prohibited Articles" the meaning of that should not merely be taken to mean only those "Prohibited Articles" as may be described under the **Weapons Prohibition Act 1998 No 127**. The meaning we intend would encompass this, but should be understood to also include the following articles....

- Alcohol in any form
- Illegal, prohibited or controlled substances (drugs)
- Portable vessels either designed, or modified for the purpose of containing alcohol or other illegal or prohibited substances
- Blades such as that which would be illegal for a minor to purchase or carry on his or her person in a public place
- Fireworks, flares or other pyrotechnic device
- Spray-paint can or other pump-action spray or propellant device containing paint, ink or dye
- Any other article that could be reasonably judged by Security Staff as could bring harm to another person, or unreasonable damage to property
- False or altered Identification documents

The reason for the listing of these particular kinds of items is that these are the particular kinds of items found in the possession of minors attending functions under our control with alarming frequency.

It is our proposal that a suitable method of screening guests attending a Minor's Function be made compulsory for the purpose of identifying and neutralising the potential threats created by these kinds of articles.

Although it may appear at first consideration that this might be a heavy-handed tactic to employ, it is our experience that Minor's Functions, with specific attention granted to High School Formals and Graduation Celebrations, are a high-risk target for gang-related activities, the carriage of dangerous weapons, and the use and transference of illicit drugs.

Our proposal is that it may either be suggested as a guideline, or, at the Government's discretion – made mandatory, that bag and body searches be conducted to screen for such threats.

Bag searches are a reasonably straightforward procedure and widely practised already but body searches would be aided by the use of hand-held metal detectors, as a method of screening that would be both speed-efficient and unobtrusive.

Metal detectors would of course only detect articles containing metal but again, it is our experience that such articles constitute the bulk of all "prohibited articles" generally found in the possession of minors.

D/ Authorised Areas: In many cases, venues that seek to conduct Minor's Functions are large premises with multiple areas capable of either hosting large functions, or where situations exist whereby function spaces may overlap, or be shared either with other functions, or the public.

In such cases, there exists the potential for the following problems...

- Members of the public gaining access to Minors during functions
- Minors having contact with people other than those on the guest list for their own function
- Minors having access to alcohol that may be available at other functions
- Minors having access to other minor's functions that they are not entitled to have access to

For these reasons, it is our proposal that there be mandatory rules for the clear allocation of defined function areas with physical, or visual barriers. In areas where such barriers are not practicable, then measures must be put in place by security staff to ensure that the non-alcohol area, and those who are bona-fide guests of events within that area are not compromised.

E/ Responsible Service of Alcohol Accreditation: This accreditation exists as a requirement for certain staff that work at functions.

Part of the criteria for the accreditation is the development of skills in identifying the effects of alcohol upon those who have consumed it.

It is our proposal that all staff members, employed by venues granted a Minor's Functions Authorisation, who intend to be available for roster to Minor's Functions, should also hold that accreditation and be trained in such skills.

F/ The working with Children Check: The Department of Education and Training New South Wales Child Protection (Prohibited Employment) Act 1998 states that all employees working in a child-related environment must seek a "Working with Children Check", and satisfy the requirements necessary for approval prior to commencement of duties with children.

It is our proposal that this law be equally applied to those seeking employment within the scope of Minor's Functions.

This would therefore apply to the following positions, as being held by people who would have direct contact with minors...

- Venue Managers and Staff
- Event Managers
- Masters of Ceremony
- Disc Jockeys and other entertainers
- Security Guards
- Photographers
- Technical Crew
- Ushers
- Ticket Collectors
- Any other person that may be in attendance in a Minor's Authorised area during the hours of a Minor's Function that would in any way have access to, or make contact with Minors.

If we are interpreting current legislation correctly, this is an area that technically should already be mandatory and should be enforced. Our proposal would be that further publicity and education of those whom would be impacted by it should be part of an overall upgrading of Minor's Functions Authorisation legislation.

Subsection 1.5 - Who else should be subject to the regulations of a Minor's Functions Authorisation?

Not every organisation that seeks to do business with the area of the functions market relating to Minors is a venue.

It is our proposal that all caterers, function co-coordinators and event managers wishing to carry on business within the area of the market pertinent to functions with minors, that would be required to adhere to Minor's Functions Authorisation regulations, should also be made to apply for some form of license or permit to arrange and / or operate such functions.

There should be a criteria set to satisfy for the granting of such permit. This would go towards making certain that only fit and proper people are running these sorts of functions and that they have the expertise and procedures to deal with this market.

Such a permit should be made available for inspection at any time requested by a venue representative, Police, Government inspector or any client with whom the co-coordinator is conducting business.

In many instances, if a person or firm is acting as an Event Manager on behalf of a venue and a client, then an Event Manager following the same methods or criteria may, then perform some of the duties that would normally become the responsibility of a venue.

Here is a list of duties that relate to this suggestion....

- Names Register
- Ticketing
- Event Reporting
- Signage

Why these particular duties have been selected as those, which can be performed by either a venue, or Event Manager, is simply that these are duties that can easily be done by either. The concept being that so long as the duty is performed according to the mandatory requirement, it is not important by whom. This method of sharing duties may assist in seeing every opportunity for such tasks to become easier, therefore increase the likelihood that they will be done.

While maintaining an outlook that includes a measure of realism, the harder and longer a list of compliance becomes, the less likely all will be satisfied. While this proposal offers many suggestions for additions of items to such lists, it also offers workable suggestions for implementation.

A/ Only those authorised can conduct functions.

Once it has been established as to who is authorised, licensed or permitted to conduct Minor's Functions, whether that be venues, Event Managers, Function Coordinators or other persons, it is our proposal that these Authorised organisations / persons be only permitted to liaise with each other when conducting Minor's Functions. That is to say – A Venue may only accept a booking from a "Licensed" Minor's Event Manager who seeks to conduct a Minor's Function, and likewise an Event Manager must only seek to conduct Minor's Functions at a "Minor's Authorised" venue.

B/ Wording of terms and conditions relating to alcohol and other prohibitions on pertinent paperwork for clients.

It is our proposal that all venues, caterers, function co-coordinators and event managers, that are Minor's Function Authorised, must state clearly and concisely, on all correspondence with persons or organisations with whom they conduct business, that under the law, no alcohol will be available to any person regardless of age or station.

It should further be imposed that such a statement must be written on each contract or agreement word-for-word, according to the Government's choice of wording.

To take that suggestion a step further, it may also be imposed that each contract, agreement or other official document transferred between venues and clients, or Event Managers and clients, where Minor's Functions are concerned, must contain or have attached or enclosed a copy of a specifically printed Fact Sheet or Brochure stating in plain English the nature of the regulations that may affect such a function.

This would have great benefit toward helping educate the market on such issues.

Section 2 POLICING AND / OR INSPECTIONS

The implementation of additional regulations, or the alteration of existing regulations will do little to affect a change in the behaviour of those who refuse to comply. For this reason it is our proposal that there be a streamlined system of inspection of the activities that fall under this legislation.

Inspections need not remain limited to times when Minor's Functions are actually in progress. It is our opinion that inspections of actual functions will find nothing but non-compliant functions, unless an additional inspection system is implemented to oversee the activities of organisations and persons in the planning stages of Minor's Functions, long before the events are conducted.

Subsection 2.1 Inspection of venues: It would make sense that the person or persons best qualified or charged with the responsibility of inspecting a venue for compliance during a venue's application for a Minor's Functions Authorisation, to be the same person or persons able to conduct an inspection of the venue at a later date during the time that Minor's functions are being planned and booked.

The purpose for the inspection during such a time would be in order to ascertain whether certain procedures or guidelines were being followed according to legislation. Examples might be....

- Checking that bookings from Event Managers are only from Authorised Event Managers
- Checking that correct terms and conditions, with appropriate wording, are being attached to, or included within, papers dispatched to clients
- Checking that appropriate reporting has been carried out on existing bookings
- Checking that appropriate registers are being kept on functions approaching the proposed dates

Subsection 2.2 Inspection of Event Managers: Similarly, and for the same reasons, Authorised Event Managers should also be subject to periodic or random inspections.

Subsection 2.3 Inspection of Minor's Functions in progress: The most important inspections would be those carried out at the time Minor's Functions are in progress.

The purpose of such inspections would serve different purposes dependant upon which premises the event was being conducted within.

If information is received, from any source, warranting an inspection of a function suspected of taking place either at premises that are not authorised, or being conducted by an Event Manager that is not authorised, or that a function attended by minors is in any other way not compliant with regulations, then an inspector may be dispatched to that place and make certain determinations. These determinations could result in either of two different scenarios...

1/ That the function, those running it, and the venue are all compliant with all of the points on a Minor's Function compliance checklist.

OR

2/ That the function, those running it, or the venue are NOT compliant with all of the points on a Minor's Function compliance checklist.

If total compliance is determined (as in scenario 1), except that either the venue or the event manager holds no permit, then we propose that the Government in such circumstances may grant an inspector sufficient authority to issue a temporary permit for only the duration of that function, with an undertaking from all concerned that a genuine application for a Minor's Functions Authorisation will be lodged within

a certain and reasonable timeframe and that no other Minor's Functions will be conducted until such an application is approved.

If total compliance is NOT determined (as in scenario B), whether the venue and the event manager hold permits or not, then an additional 2 possibilities may present...

A/ That the point/s of non-compliance are easily able to be rectified immediately AND pose no hazard to minors.

OR

B/ That the point/s of non-compliance cannot be immediately rectified and are of reasonable concern so as to create some hazard to minors.

If the point/s of non-compliance (as in scenario A) can be rectified immediately to the satisfaction of an inspector, then once again, a temporary permit may be issued.

If the point/s of non-compliance (as in scenario B) cannot be rectified, and a hazardous situation ensues, then the Government may see fit to also grant the inspector sufficient power to bring the function to an immediate end.

In either situation, reports would be submitted to the Government by any such inspector, and it may be the decision of the Government to adopt a further course of action based on that information.

Section 3 SOLVE THE PROBLEM AT HOME FIRST

This particular section may seem somewhat vague when it comes to references to the Liquor Act. The explanation will make sense.

There is a popular activity known among teenage circles as "The-Pre-Formal Drinks". This is an activity that serves as a prelude to a High School Formal or Debutante Ball. The concept is that any number of minors may congregate at the home of one of those minors in the hours preceding their evening event. At this gathering, the popular activities include... taking of photographs, exchanging of gifts, and the consumption of alcohol, sometimes in excessive quantities.

In many cases, this is done without any parental supervision. Unfortunately, the vast majority is done with parental supervision, parental consent and the parent hosting the gathering is most often the person supplying the alcohol.

There are many reasons why this concept has been cause for concern to us for some time.

The major concern is that these minors will firstly consume alcohol just prior to arriving at Minor's Functions in licensed premises, and will therefore all fail assessment for legal and proper entry to their event.

The secondary, but still major, concern is that, by supplying, and openly condoning the consumption of alcohol by minors in this fashion, parents are conveying what we believe is a clear message to minors that they approve and encourage the practice. In such instances, this follows on to these same minors obtaining and consuming further quantities of alcohol between their point of departure and their arrival at the event.

After having spoken to a number of parents at the time their children were failing their entry assessments for entry to their events, their argument and defense was that they believed they were clearly within their rights under the law to supply alcohol to any minors in their own home. They further argue that this activity is a child's "right of passage" into the adult world. The most disturbing argument is that because the parents remembered becoming completely intoxicated prior to and during their

similar event, that it is their opinion and wish that this should follow on another generation as “tradition” and a “part of social culture”. We find this outlook particularly frightening and abhorrent.

Under the current Liquor Act, it is legal for parents to serve alcohol to their own minor children at home, but NOT including children of other people unless they’re granted “Loco Parentis” for that gathering by the parents or guardians of those other minors. The problem is that such allowance was not designed to allow them to grant minors access to alcohol and send them off unsupervised to licensed premises where alcohol is forbidden. It was designed to allow parents to teach responsible appreciation of alcohol in a controlled environment such as a home. It is our suggestion that this be clarified in a public campaign as well as defining Loco-Parentis as being required in writing before being considered acceptable as “legal”.

If legislation is to be introduced in order to protect the safety and security of minors when attending social events by removing the alcohol factor as a potential danger, then all the legislation, supervision, prohibition, regulation, inspection, prosecution and education will be made completely futile if these minors will be permitted to become intoxicated before they even depart their own homes, or the homes of others.

It is our proposal that it be made aware to these people that one activity does not and cannot relate to the other. That is to say, that if the consumption of alcohol in a minor’s own home, with consent of that minor’s parent or guardian is to remain an activity approved or condoned by this Government, than it can only be done if any activity subsequent to the consumption of alcohol does not include attendance at any Minor’s Function, or any licensed premises.

It is our expert opinion that almost everything we propose here can easily be destroyed or made redundant if we do not make concise maneuvers to eliminate this dangerous clash of “Pre-Formal Drinks” and Minor’s Functions.

Section 4 EDUCATION AND PUBLICITY

As with any change to a complex legislation such as this, there needs to be a subsequent comprehensive programme of making aware those people whom the changes will affect.

It is our proposal that a large-scale campaign be initiated in order to maximize the greatest coverage over those people in the simplest possible language to comprehend. The targets of this campaign should include....

- Function Venues
- Event Managers / Function Coordinators
- Suppliers of pertinent function goods and services
- Secondary Schools
- Universities / Colleges
- P & C Associations & community groups
- All organisations connected primarily with minors
- The Media
- Police and all other pertinent state Government Departments

It is our proposal that a comprehensive web site for minor’s functions be constructed, and that a recommendation be made to all applicants that their own web presence, if they possess one, should contain a conspicuous link to the Government web site pertaining to Minor’s Functions. In return for such a link being posted, the Government may reciprocate with an authority to display on their web site that they are authorised to conduct Minor’s Functions.

It goes to follow that a fresh set of fact sheets be designed, manufactured and distributed to all necessary targets.

Of course, comprehensive information kits should be distributed to all known organisations that are identified as potential applicants for a Minor's Functions Authorisation.

It is proposed that all material, electronic, printed or otherwise be designed with continuity throughout so as to promote a recognisable image, and that this design would be made appealing to teenagers, as they will doubtless be the targets most desirable as recipients for the message, from which ever source they see fit to consult.

Section 5 DANGEROUS OR PROBLEMATIC RETAIL LIQUOR PACKAGING

We have a serious problem with a culture in this country of teen alcoholism. All respected research and anecdotal evidence confirms this. When teens seek to attend social engagements, a significant portion of them will seek to involve some level of liquor consumption as integral to that process. Some will seek to involve a small quantity of liquor, while an alarming portion will seek absolute intoxication as essential to their enjoyment of such events. This is a sad reality.

Despite many programmes, procedures and regulations having been structured and applied to combat the phenomenon of underage alcoholism either at home, or at venues, one very large gap exists where little or no action has been attempted, and that which has been applied, has been ineffective. This is the area of retail sale of liquor in specific packaging that is conducive to smuggling.

Please regard the following picture of three retail bottles that were used by minors to smuggle liquor into high school formals in September of 2012...



Bottle A is made of glass, is a conventional shape & size and has a metal cap. This bottle when full is quite thick, heavy and easily detectable using magnetic screening devices. This is not a vessel terribly conducive to smuggling and, as a result, was discovered by conventional methods by security staff and confiscated before being consumed.

Bottle B is made of lightweight Petalite plastic, is a very specifically unusual shape & size, and has a plastic cap. It is extremely light, has a curved shape (making it fit precisely against the body shape of torso or thigh), and is completely undetectable using any form of device commonly used to pinpoint metals or solid objects. It contains 375 ml of vodka. This is the perfect vessel containing the perfect liquor for smuggling into venues, and as a result, this is by a huge margin, the most popular and highest-selling item found among the possessions of teenage minors attending licensed premises in the last 10 years. This bottle was successfully smuggled into a school formal and the contents consumed by minors on premises.

This product has caused the school formals market considerable grief, sufficient as to warrant investigation by Prom Night Events into what may be done to rectify the problem.

In 2009 a meeting took place between the director of Prom Night Events and the Marketing Director of Diageo, the distributors of the product in Australia.

At that meeting, Elliot Kleiner, representing Prom Night Events, outlined the problem to Diageo and asked for advice, data or assistance to solve the issue.

Diageo stated that this particular product was designed specifically, and only for use by airlines in flight. The lightweight Petalite plastic and 375 ml volume was intended to combat weight issues for both aircraft and the one-handed pouring action of flight attendant staff when operating over the heads of seated flight patrons for safety. The curved and flexible design of the bottle were designed so as to allow many of such bottles to be stacked against each other in storage compartments without breakage during turbulent flights.

Mr Kleiner stated to Diageo that while these design features made perfect sense when applied to Diageo's stated purpose, the fact that they were made available in every retail bottle shop in the state, where they are positioned at point of sale and displayed at eye level, is a significant contributing factor to explain why they were appearing in the hands of minors.

Diageo stated that they were shocked to hear of this phenomenon, as they understood that these bottles were never intended for release for retail sale, and that they would launch an immediate investigation with a view to removing this product from retail sale immediately.

It is noteworthy that Mr Kleiner never again heard from Diageo, and to the day of this submission, these products are still being sold in the same way as before, as evidenced by the September 2012 incidents.

Bottle C is a single-serve vessel of Jim Beam Bourbon, also made entirely from plastic, as is its counterpart in several dozen well-known brands of liquor. This type of bottle was designed for use in the mini-bar facilities in hotel rooms, and is not supposed to be for sale in retail outlets, yet, as with the Diageo product, is freely available at all bottle shops at eye-level point of sale, and for this reason, finds its way into the hands of minors on licensed venues.

Our proposal regarding these types of plastic bottles of liquor is simple – ban them from retail sale altogether! There is no reason for them to be available for retail sale, except for their ability to be concealed and undetectable inside clothing. We suggest that there is no acceptable reason for a person to conceal liquor at all.

This ends the proposal. Please see further for Appendixes...

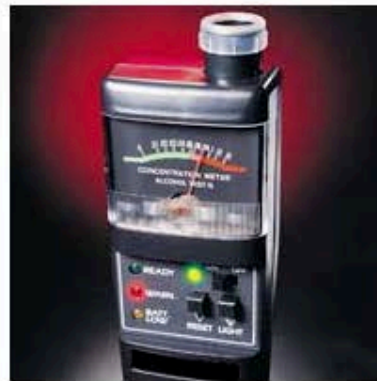
APPENDIX

Breath Analysis Devices

For the purpose of this proposal appendix, we have included details of a specific model of breath analysis device, such as we use, because this will help to convey what features of the device are relevant to the application of it to the activities we are discussing. It is acknowledged that there are many devices available, of different brands and models, which could also possess similar features making them equally suitable for achieving the same purposes.

Driveguard

Details of the device, special features added to the device, testing report as to the accuracy of the device, and a proposed system of reporting as to the results of the use of the device.



This device is a simple hand-held unit. It is powered by a set of 6 AA sized batteries, which give it sufficient power for approximately 500 breath tests.

It has 4 light-emitting diodes. One green to indicate that the device is switched on, one green to indicate that the device is clear and ready for a test, one red (flashing) to indicate that the breath submitted is indicative of greater than 0.05% blood alcohol level, one amber to indicate that the battery life is approaching it's end.

There is also one switch to activate the device, one button to reset and prepare the device for further testing by clearing the current reading, and one button to activate an illumination of the gauge.

The gauge is a needle-style level meter, which displays the concentration of blood-alcohol ranging from 0% through the following readings...

0.01%, 0.02%, 0.03%, 0.04%, 0.05%, 0.06%, 0.08%, 0.1%, 0.12%, 0.15%

The breath is delivered via the circular port at the top of the unit. This port is designed for a mouth to fit around it directly. We have created a small, plastic cover that fits tightly over this port, which is tapered to accommodate the insertion of an ordinary plastic drinking straw through which to deliver the breath. This additional cover, and the addition of a straw do not inhibit or alter the flow of breath through the port in any way. The straw is immediately discarded after each test and replaced with a fresh one.

The purpose for the addition of the cover and straw is to offer a hygienic method of use for the device between multiple users without them coming in contact with any organic material or germs, and without coming into any contact with the device or the person administering the test.

No real skill is required to administer a test and any competent person can be shown how to conduct a test in around 30 seconds.

The average test takes only seconds to conduct and delivers a sufficient reading almost immediately.

This particular unit possesses an important feature, not commonly found but existing in a small number of models of similar devices but very important to this specific application of it. That feature is that it requires no reset time in between tests showing a negative result, as opposed to other commercially available units that require a significant period of time to reset between tests, whether positive or negative results are shown.

Important Note: Although we have tested the devices to ensure their accuracy, (testing report included), it is most important to note that the accuracy of these devices, in terms of the precise blood alcohol levels revealed in test subjects, is not of any great importance.

The true purpose of these devices is merely to detect if test subjects have consumed ANY measure of alcohol. For that purpose, these devices perform at levels far higher than the minimum necessary to achieve this end.

Our procedure for use of the device is simple. We administer the test. If there is no reading of alcohol, that is the end of the procedure. If there is a reading of alcohol, the reading is shown to the test subject, and also shown to another staff member for verification. If the reading indicates a low volume of blood alcohol, say beneath 0.03%, the test subject is immediately offered an opportunity to test again and the device is reset, a fresh straw is inserted so as to remove the possibility that any material from the previous test may remain in the straw, and the test is administered once more the same way.

If the reading once more shows a similar alcohol content present, then we ask the test subject to produce identification as proof of age. If such identification is produced and the proof exists that this person is not a minor, then the content of alcohol, coupled with the condition and demeanor of the test subject is considered and a judgment is made as to their state of fitness to enter the authorised area.

If, on the other hand, identification is not produced, and the age of the subject cannot be verified as over 18 years, then they are treated as a minor and the "safety area" procedures are initiated.

If a reading is returned demonstrating a high level of blood alcohol content, say 0.08% or above, then no immediate second test is given and the subject is considered to be unacceptably intoxicated regardless of their age. It is our experience with having administered literally hundreds of thousands of tests with these devices in the field, that although a "false positive" or "false negative" reading may rarely but sometimes encountered with low blood alcohol content readings, there exists no evidence of "false positive" or "false negative" readings involving high levels of blood alcohol content.

It is noteworthy that, at the time of the writing of this proposal, although there exist many hundreds of models and types of devices designed for breath analysis of the blood alcohol content of humans, both commercially available to the public, and to law enforcement agencies, that it is widely publicized that there remains only one (1) type of sensor fitted within the device for the actual gauging of the B.A.C. It is patented by one company worldwide and manufactured by only one company for worldwide distribution. For all intents and purposes, the accuracy of all breath analysis devices of this type are therefore all equally effective for the purpose as described within this proposal, although only the devices allowing unlimited negative tests without reset time in between tests are the units we recommend are suitable for this application.

The following page contains the result of a testing procedure we ran to determine the fitness of the device for this purpose. The report demonstrated to our complete satisfaction that the device is sufficiently accurate to serve the purpose for which we intended to employ its use.

Information has been removed by resolution of the Committee

In cases where test subjects are found to have consumed alcohol, and have been put through the safety area procedure, no matter what result is reached, i.e. their departure from the premises, or their

re-assessment and subsequent admission to the event, there must be an accurate register of the findings.

Our proposal suggests that there exists no real necessity to keep a register of readings that result in any end that involves the eventual entry of an attendee into the event.

On readings, however, that include results of any quantity of alcohol ingested by attendees that results in their expulsion from the venue, a log should be kept as to the following details...

- Date
- Time of test
- Name of test subject (taken from printed ticket presented)
- Alcohol reading returned
- Action taken
- Name and signature of person administering the test
- Name and signature of person verifying the result
- Time of subsequent test
- Alcohol reading returned
- Action taken
- Time of subsequent test
- Alcohol reading returned
- Action taken

It is our proposal that these details be logged into a book or ledger and kept as an official register that may be inspected by Government officers upon request.

If such a procedure were put into operation, it would efficiently eliminate any ambiguity, opinion or argument as to whether a minor or other person had consumed alcohol prior to arrival at a Minor's Function sufficient as to exclude them from entry.

END Appendix