

## **PROVISION OF ALCOHOL TO MINORS**

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**Date Received:** 24/07/2013



# Premier & Cabinet

2013-211206

Mr Bruce Notley-Smith  
The Chair  
Social Policy Committee, Parliament House  
Macquarie Street  
SYDNEY NSW 2000

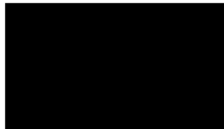
22 JUL 2013

Dear Mr Notely-Smith

Thank you for the opportunity to provide input towards the Social Policy Committee of the Legislative Assembly's inquiry into the provision of alcohol to minors.

The attached information is provided for the Committee's consideration, in response to the Committee's May 2012 discussion paper.

Yours sincerely



Chris Eccles  
Director General

# **Social Policy Committee of the Legislative Assembly: Inquiry into the Provision of Alcohol to Minors**

## **Further information from the NSW Government**

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The NSW Government welcomes the opportunity to provide further input to the Legislative Assembly Social Policy Committee's Inquiry into the Provision of Alcohol to Minors.

The following information submission is provided following the release of the Inquiry's discussion paper in May 2013. As the NSW Government does not wish to pre-empt the Committee's findings or recommendations, this submission has been prepared to be factual in nature, or to raise matters for the committee's consideration in relation to questions in the discussion paper. We have not sought to repeat information provided in our 2012 submission.

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### **REQUIRING RESPONSIBLE SUPERVISION**

#### ***Proposed Recommendation 1***

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

#### ***Proposed Recommendation 2***

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

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

Implementing Proposed Recommendations 1 and 2 would place a qualification on the rights of parents to supply alcohol to their children.

To implement these recommendations it is assumed an offence provision would be required in cases where alcohol is supplied without reasonable supervision. Investment would then be required to educate police officers regarding what constitutes reasonable supervision and the evidence required to prove the offence.

In some cases, the evidence police would need to determine whether reasonable supervision was provided (e.g. state of intoxication of the relevant parties, amount and type of alcohol consumed etc.) could be difficult to obtain, particularly where the offence has occurred within a family context.

### ***Proposed Recommendation 2 - Question***

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

The Discussion Paper refers to the National Health and Medical Research Council (NHMRC), Australian Guidelines to Reduce Health Risks from Drinking Alcohol (2009). These guidelines have been endorsed by NSW. They are informed by clinical evidence of the impact of alcohol on health, learning, memory problems and reduced attention. The Guidelines state:

For children and young people under 18 years of age, not drinking alcohol is the safest option:

- A. Parents and carers should be advised that children under 15 years of age are at the greatest risk of harm from drinking and that for this age group, not drinking alcohol is especially important.
- B. For young people aged 15–17 years, the safest option is to delay the initiation of drinking for as long as possible (NHMRC).

A minimum age limit on the provision of alcohol to minors would place an onus on members of the public to determine the age of a person before supplying them with alcohol. The Committee may wish to consider the impact this would have on members of the public, particularly what steps they would be required to take and what evidence they would need to have, in order to discharge this onus.

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

### ***Proposed Recommendation 3 - Question***

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

The following table sets out statistics for legal actions under section 117(4) of the *Liquor Act 2007* from 2009-10 to 2012-13. The figures indicate these offences are rarely enforced by police officers and show a decline in enforcement actions over the last four years.

Legal action	2009-10	2010-11	2011-12	2012-13*
Court attendance notices	13	9	12	6
Infringement notices	35	38	20	11
Verbal warnings	6	2	1	1
Total	54	49	33	18

\* Data is to 16 June 2013 only

### ***Proposed Recommendation 4 - Question***

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

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



Requiring written authorisation before a person can supply alcohol to a minor could make the task of prosecuting offences easier. However, it could also add some complexity to police investigations.

If written authorisation were required, police would need to ensure the authorisation was not given before proceeding to charge a person. If evidence of written authorisation were produced, police might also need to obtain evidence to verify that it is legitimate and that it was issued prior to the supply of alcohol.

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## **STRONGER PENALTIES**

### ***Proposed Recommendation 5 – Question***

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

As noted in the Discussion Paper, the maximum fine for supplying liquor to a minor varies from \$7,000 (in Victoria) to \$14,100 (in the Northern Territory). The maximum fine in NSW is \$11,000, which is within this range. NSW and Tasmania also have the option of up to 12 months imprisonment.

Data is available from the Judicial Commission of NSW relating to penalties imposed for the offence of supplying liquor to a minor otherwise than on licensed premises (s. 117(4) of *Liquor Act 2007*). This data shows the penalties for 16 offences dealt with in the Local Court between January 2009 and December 2012:

- 10 were dealt with by way of a fine
- 3 were dealt with under s. 10 of the *Crimes (Sentencing Procedure) Act 1999*, with no conviction being recorded
- 2 were dealt with by way of a good behaviour bond under s. 9 of the *Crimes (Sentencing Procedure) Act 1999*
- 1 was dealt with by way of a suspended term of imprisonment pursuant to section 12 of the *Crimes (Sentencing Procedure) Act 1999*
- No offenders received a sentence of full-time imprisonment.

The NSW Sentencing Council's report, *The Effectiveness of Fines as a Sentencing Option*, identified the impact of fines on marginalised sections of the community. The report noted the imposition of a large fine on an already disadvantaged person opens the door to further interaction with the criminal justice system, with consequent negative impacts for family life, employment, individual morale and often the wider community. This in turn may have unintended impacts on minors.

### ***Proposed Recommendation 6***

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

### ***Proposed Recommendation 6 – Question***

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

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

The Discussion Paper (Proposed Recommendation 6) raises the possibility of using education workshops as a penalty option for the offence of supplying alcohol to minors. The Committee may wish to consider that the number of people charged with these offences (let alone minors) is minimal. As a result there may not be enough demand to support regular workshops. The Discussion Paper notes only nine people have been charged under similar Tasmanian legislation.

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## **BETTER EDUCATION MEASURES**

### ***Proposed Recommendation 8***

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

### ***Proposed Recommendation 9***

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

### ***Proposed Recommendation 10***

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

In its 2012 submission, the NSW Government provided the Committee with information on the methods it uses to communicate messages about alcohol and liquor laws.

Since then, an additional internet-based resource has been developed. 'Out Tonight? Party Right' is an online resource for Year 9 to 12 students to improve young people's awareness around alcohol, the law and the potential risks associated with alcohol consumption. The website was developed by the Office of Liquor, Gaming and Racing in conjunction with the Department of Education and Communities to align with the NSW school curriculum.

The Department of Education and Communities has also developed a series of pamphlets titled *Alcohol: Celebrations and Supply*, which provide suggestions for parents hosting celebrations and information about the laws on supplying alcohol to young people.

### ***Proposed Recommendation 11***

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

Many parents access public health information through their local community-based or privately provided early childhood service. Proposed Recommendation 11 is consistent with Regulation 157 from the Education and Care Services Regulation and Standard 6.2 of the National Quality Standard, which are legislative requirements for all early childhood services across Australia.

Section 6.2.2 of the National Quality Standard states current information must be available for families about community services and resources to support parenting and family wellbeing. This could potentially include information about the provision of alcohol to minors.