

WA Alcohol and Youth Action Coalition Position Statement

ALCOHOL AVAILABILITY

Last updated: 30 January 2013

General notes

- Controls on the availability of alcohol are an important component of a comprehensive strategy to prevent harm from alcohol among young people.
- The Coalition will focus on population-level prevention strategies but also supports appropriate treatment and services as part of a comprehensive approach.
- Alcohol use by young people must be seen within the context of the Australian drinking culture and measures required to reduce broader harms.

Key messages and recommendations

The WA Alcohol and Youth Action Coalition ('the Coalition') supports approaches to controlling the availability of alcohol to prevent alcohol being treated like an ordinary commodity.

Liquor licensing

Objects of the Act

Minimising harm and ill-health should be the primary objective of the *Liquor Control Act 1988*.

Community participation

Liquor licensing processes should provide for meaningful community participation. The *Liquor Control Act 1988* and the way it is administered by the Department of Racing, Gaming and Liquor should enable and support effective community engagement in liquor licensing processes.

Monitoring and enforcement

The Department of Racing, Gaming and Liquor and the WA Police should be adequately resourced to ensure effective monitoring and enforcement of the *Liquor Control Act 1988*.

Legislation should be introduced to enable the WA Police to undertake controlled purchase operations to monitor and enforce existing age provisions in relation to the purchase of alcohol.

Outlet density and opening hours

National guidelines on alcohol outlet density and opening hours should be developed and introduced to guide planning and liquor licensing decision making.

The WA *Liquor Control Act 1988* should allow for consideration of outlet density and the cumulative impact of licensed premises in liquor licensing decision making.

Secondary supply

The *Liquor Control Act 1988* should be amended to prohibit the supply of alcohol to minors in all settings without parental permission ('secondary supply' legislation). Legislation should also have regard for adequate supervision where alcohol is supplied to minors.

Alcohol sales data collection

The collection of local-level alcohol sales data in WA should be maintained and improved, and other jurisdictions should be encouraged to implement analogous processes. Local-level alcohol sales data

should be made available to bona fide researchers and in policy planning to improve the evidence base for alcohol policy, the evaluation of policy initiatives and the monitoring of alcohol indicators in WA.

Background

Research has demonstrated consistent links between the availability of alcohol in a region and the alcohol-related problems experienced there.¹⁻⁵

Young people report that alcohol is readily available.⁷ Parents are a key supply source of alcohol for underage young people. The 2011 Australian School Student Alcohol and Drug survey found that parents were the most common source of obtaining alcohol for WA 12-17 year old students.⁸

Some young people believe it is fairly easy for underage young people to purchase alcohol from licensed premises.⁷ Research in WA has shown that a significant number of underage young people or underage looking young people are able to purchase alcohol from retail outlets without having their age verified.⁹⁻¹¹

Liquor licensing

Objects of the Act

Section 5(1) of the *Liquor Control Act 1988* (the Act) outlines the primary objects of the Act:

- (a) to regulate the sale, supply and consumption of liquor; and
- (b) to minimise harm or ill-health caused to people, or any group of people, due to the use of liquor; and
- (c) to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.

Changes to the Act in 2006 saw the inclusion of an industry-specific clause as a primary object of the Act (Object c). This object is given equal weighting to the other objects and competing considerations must be weighed and balanced in liquor licensing decision-making.

The National Preventative Health Taskforce recommended that liquor control laws should have harm minimisation as its primary objective.¹ The WA Parliament Education and Health Standing Committee recommended that the Act be amended to make 'protecting and improving public health' the primary object of the Act.¹⁰

The inherent conflict between minimising harm from alcohol and supporting the liquor and related industries should be removed from the Act by giving unambiguous precedence to minimising harm or ill-health.

Community participation

The current liquor licensing processes are not easily accessible to community members wanting to communicate their concerns about a liquor licence application. Regard for community engagement is largely absent from liquor licensing processes.

Community participation is restricted by a range of factors including the limited requirements for applicants to inform communities of applications, inflexible requirements for the format of objections, objectors holding the burden of establishing the validity of objections, the difficulty in accessing localised evidence to support objections, limited support offered by the Department of Racing, Gaming and Liquor (DRGL) for objectors, the high level of literacy required to engage in formal government processes, the protracted nature of the processes, the complexity of lodging

objections (e.g. completing Form 17 correctly, the requirement to 'serve' a copy of an objection on the applicant), and the potential associated legal costs beyond the capacity of individuals and non-government organisations.

As a consequence, community interests may not be adequately represented in liquor licensing processes, while those applying for liquor licences are generally vastly better resourced to have their interests represented.

To ensure community interests are appropriately represented, the factors preventing effective community participation in liquor licensing processes must be comprehensively addressed.

Monitoring and enforcement

The Act sets out the framework for regulating the sale of alcohol and the premises where it is sold. In WA, around 4300 premises are licensed to serve alcohol.¹² Compliance with the Act needs to be monitored and enforced. The Act gives powers to the Director of Liquor Licensing (supported by the DRGL), the Liquor Commission and the WA Police to regulate licensed premises and ensure compliance with the Act.

The WA Auditor General's 2011 report, *Raising the Bar: Implementing key provisions of the Liquor Control Act in licensed premises*, identified that while DRGL and the WA Police monitor and enforce some key provisions of the Act, neither agency effectively monitored or enforced the responsible service of alcohol.¹² Responsible Service of Alcohol laws ban the serving of alcohol to intoxicated and underage persons; however, these laws must be effectively monitored and enforced in order to ensure they are complied with.

Other issues raised in the Auditor General's report include the competing priorities of frontline police, inconsistent coverage of regional areas in regard to monitoring, inadequate assessment of risk (i.e. an understanding of patterns and causes of incidents in and around licensed premises to assist in identifying emerging problems before they escalate), and the difficulty in proving that a patron is drunk.

The Auditor General's report noted that DRGL is not funded to provide a compliance role, rather DRGL has funding for only six inspectors whose role it is to assess venue/building suitability for the whole of WA. DRGL do not consider they have the resources or the powers to effectively monitor the responsible service of alcohol.¹²

The WA Police and DRGL must be adequately resourced to ensure that all provisions of the Act are effectively monitored and enforced.

Controlled purchase operations are a mechanism by which police could monitor and enforce legislation regarding the sale of alcohol to minors. Amendments to legislation would be required to enable police to undertake controlled purchase operations for alcohol. Legislation for controlled purchase operations would allow an underage person to enter a licensed premise under controlled conditions to attempt to purchase alcohol. If the underage person is successful, the accompanying police can lay the appropriate charge against the retailer. Such operations are used in New Zealand and the United Kingdom. Controlled purchase operations are undertaken in WA for compliance monitoring of tobacco sales, but are not currently allowed for alcohol. WA Police have expressed their support for controlled purchase operations in regard to alcohol.^{10, 13}

Strong community support exists for controlled purchase operations in regard to alcohol. An independent survey of 1450 West Australian adults conducted by the Painted Dog Research

company in November 2012 (commissioned by the McCusker Centre for Action on Alcohol and Youth) showed: 76% of Western Australians support additional police powers to ensure liquor outlets do not sell to minors by allowing police to work with under-age young people to attempt to purchase alcohol (with only 9% opposed).

Outlet density and opening hours

There is significant evidence that shows increasing the availability of alcohol in a region increases alcohol-related problems¹⁻⁵ and other health consequences in the community.⁶ Studies have consistently found that the density of alcohol outlets in an area is positively associated with the rate of violence in that area, with similar patterns for other outcomes including road crashes and general injuries.¹⁴ Research evidence also suggests that higher liquor outlet density is associated with heavier drinking among young people.^{15, 16}

Evidence from Australia^{4, 17} and overseas¹⁸ supports the view that later liquor trading hours increase alcohol-related problems, including violence in and around premises, violent crime and impaired driver road crashes. Conversely, restrictions on the availability of alcohol have been associated with reduced levels of alcohol-related problems.

Evidence from Newcastle in New South Wales found that following the imposition of trading restrictions on 14 licensed premises, assaults after dark fell by 29% (133 per year).¹⁹ The trading restrictions brought forward the closing time to 3am of the 11 premises that were previously licensed to trade until 5am, and to 2.30am for the three premises licensed to trade until 3am; imposed a lockout from 1am for all premises; prohibited the sale of shots, mixed drinks with more than 30ml of alcohol, pre-mixed drinks with more than 5% alcohol by volume, and the sale of more than four drinks to any patron at one time; and restricted the sale of alcohol 30 minutes prior to closing time. The evaluation of the trading restrictions found no evidence that problems were displaced to other locations, and while there was an increase in assaults recorded earlier in the night, these did not offset the reduction occurring between 3am and 6am.

There is currently little consideration of the evidence regarding outlet density and trading hours in liquor licensing and planning processes. In WA, each liquor licence application is considered on its own merits without sufficient regard for the cumulative impact of licensed premises.

Regulating both the number of alcohol outlets and their opening hours must be a core component of managing the availability of alcohol.¹ National evidence-based guidelines on alcohol outlet density and opening hours would make an important contribution to planning and decision making in regard to liquor licensing.

Secondary supply

Many underage young people in WA access alcohol from parents, friends, siblings or other adults.⁸ Evidence supports the frequency of supply of alcohol by parents, friends and others as a significant predictor of drinking among underage young people.¹⁵

The secondary supply of alcohol refers to the sale or supply of alcohol to people under the age of 18 years by adults and by other minors. While it is illegal under licensing law in all Australian jurisdictions for staff of licensed premises to serve minors and for adults to purchase alcohol on behalf of minors, there are currently no controls in WA over the supply of alcohol to under 18 year olds in private settings. In WA, it is legal for any person to provide any amount of alcohol to any child of any age in a private residence.

In some Australian States and Territories, laws control the secondary supply of alcohol to minors in private settings. These laws state that only a parent, or an adult acting in the place of the parent, or with the formal approval of the parent, can supply a minor with alcohol in a private residence. Secondary supply legislation is in place in New South Wales²⁰ (since 2007), Queensland²¹ (since 2009), Tasmania²² (since 2009), Victoria²³ (since 2011) and the Northern Territory (since 2011).²⁴ A second offence of 'irresponsible supply' occurs in some states when a person provides an excessive amount of alcohol or does not supervise the minor's consumption of that alcohol to ensure it is consumed safely.

There is a need for legislation to bring WA in line with the other states. An independent survey of 1600 West Australian adults conducted by the Painted Dog Research company in April 2012 (commissioned by the McCusker Centre for Action on Alcohol and Youth) showed: 88% of Western Australians support the introduction of laws to prevent the supply of alcohol to minors without parental permission (with only 5% opposed).

A consultation with nearly 300 WA young people aged 14-17 years by the Commissioner for Children and Young People WA identified that an adult supplying young people under the age of 18 years with alcohol was opposed by most young people.⁷ The young people who participated in the consultation supported the introduction of laws to enforce restrictions on adults supplying alcohol to minors.

The introduction of appropriate secondary supply legislation will reinforce and support the role that parents play in providing a supportive and safe environment for their children in regard to alcohol. Secondary supply legislation would assist in supporting parents and other adults who do not want to give alcohol to minors, setting a community standard regarding the supply of alcohol to young people, and influencing societal norms on underage drinking.²⁵

Alcohol sales data collection

It is well-demonstrated that per capita alcohol consumption is closely related to rates of alcohol-related problems in a population.²⁶ Robust measures of alcohol consumption are essential for the development of effective evidence-based policy responses to alcohol-related harm.

Alcohol sales data are considered to be the best indicator of alcohol consumption at a population level as they are not susceptible to the errors inherent in self-report surveys,²⁷ and can be used to identify patterns of consumption of different beverage types.²⁶ Currently, only WA, Queensland and the Northern Territory collect wholesale alcohol sales data (the ACT will soon begin collection).

Alcohol sales data are important for monitoring trends in per capita alcohol use, studying relationships between changes in per capita consumption and population health outcomes, providing a benchmark to assess the reliability of survey estimates of consumption²⁸ and evaluating interventions to reduce alcohol-related harm.¹

Local-level alcohol sales data can be used to evaluate community initiatives to reduce alcohol-related harm and the impact of changes to liquor licensing on alcohol consumption.²⁹ Alcohol sales data has been used to evaluate alcohol policy changes within WA³⁰ and at the national level.³¹

The collection of local-level alcohol sales data in WA should be maintained and improved through collating separate records for pre-mixed and straight spirits (at present, alcohol sales data records combine them as 'spirits'), collecting data specific to cider and cask wine, and collecting alcohol sales data quarterly, as occurs in the Northern Territory, rather than the current practice of annual data collection. Other jurisdictions should be encouraged to implement analogous processes.

Local-level alcohol sales data should be made available to bona fide independent researchers and in policy planning to improve the evidence base for alcohol policy, the evaluation of policy initiatives and the monitoring of alcohol indicators in WA.

The Position of the WA Alcohol and Youth Action Coalition

State:

- Amend the *Liquor Control Act 1988* to prioritise preventing and minimising harm or ill-health as the primary object of the Act.
- Remove object 5(1)(c) of the *Liquor Control Act 1988*: to cater for the requirements of consumers for liquor and related services, with regard to the proper development of the liquor industry, the tourism industry and other hospitality industries in the State.
- Amend the *Liquor Control Act 1988* to allow for consideration of outlet density and the cumulative impact of licensed premises in liquor licensing decision making.
- Amend the *Liquor Control Act 1988* to enable effective community participation in liquor licensing matters.
- The Department of Racing, Gaming and Liquor should ensure its processes support effective community engagement in liquor licensing matters.
- Increase the resourcing of the Department of Racing, Gaming and Liquor and the WA Police to ensure effective monitoring and enforcement of all provisions of the *Liquor Control Act 1988*.
- Introduce legislation to enable the WA Police to undertake controlled purchase operations to monitor and enforce existing age provisions in relation to the purchase of alcohol.
- Introduce secondary supply legislation to prohibit the supply of alcohol to minors in all settings without parental permission, and to have regard for the adequate supervision where alcohol is supplied to minors.
- Maintain and improve the collection of local-level alcohol sales data, and encourage other jurisdictions to implement analogous processes. Local-level alcohol sales data should be made available to bona fide independent researchers and in policy planning.

National:

- Introduce national guidelines on alcohol outlet density and opening hours to guide planning and liquor licensing decision making.

References

1. National Preventative Health Taskforce. Australia: The Healthiest Country by 2020 – National Preventative Health Strategy – the roadmap for action. Canberra: Commonwealth of Australia; 2009.
2. Chikritzhs T, Catalano P, Pascal R, Henrickson N. Predicting alcohol-related harms from licensed outlet density: a feasibility study, in Monograph Series No. 28. Hobart: National Drug Law Enforcement Research Fund; 2007.
3. Chikritzhs T, Stockwell T. The impact of later trading hours for hotels on levels of impaired driver road crashes and driver breath alcohol levels. *Addiction*. 2006; 101(9):1254-64.
4. Livingston M. Alcohol outlet density and assault: a spatial analysis. *Addiction*. 2008; 103:619–628.
5. Livingston M. A longitudinal analysis of alcohol outlet density and assault. *Alcoholism: Clinical and Experimental Research*. 2008; 32(6):1-6.
6. Pereira G, Wood L, Foster S, Haggart F. Access to alcohol outlets, alcohol consumption and mental health. *PLoS ONE*. 2013; 8(1):e53461.
7. Commissioner for Children and Young People WA. Speaking out about reducing alcohol-related harm on children and young people: the views of Western Australian children and young people. 2011. Available from: www.ccp.wa.gov.au.
8. Bridle R, Goggin L, Christou A. Alcohol Trends in Western Australia: ASSAD Survey 2011. Brief communication no.6. Perth: Drug and Alcohol Office; 2012.
9. Injury Control Council of Western Australia. Pseudo underage liquor sales: a research report. 2006.
10. Education and Health Standing Committee. Alcohol: Reducing the Harm and Curbing the Culture of Excess, 2011. Perth: Legislative Assembly, Parliament of Western Australia.
11. Bridle R, J M, King T, Christou A. Australian School Student Alcohol and Drug Survey: Alcohol Report 2011 – Western Australian results. Drug and Alcohol Office Surveillance Report: Number 8. Perth: Drug and Alcohol Office; 2012.
12. Auditor General Western Australia. Raising the Bar: Implementing key provisions of the Liquor Control Act in licensed premises, 2011.
13. ABC News. Call for minors to be used in grog stings [Internet]. 2012 [updated 2012 May 7; cited 2012 May 7]. Available from: <http://www.abc.net.au/news/2012-05-07/call-for-minors-to-be-used-in-grog-stings/3995238>.
14. Livingston M. Alcohol outlet density and harm: Comparing the impacts on violence and chronic harms *Drug and Alcohol Review*. 2011; 30:515 - 523.
15. Huckle T, Huakau J, Sweetser P, Huisman O, Casswell S. Density of alcohol outlets and teenage drinking: living in an alcogenic environment is associated with higher consumption in a metropolitan setting. *Addiction* 2008; 103:1614–21.
16. Livingston M, Laslett A, Dietze P. Individual and community correlates of young people's high-risk drinking in Victoria, Australia. *Drug Alcohol Depend*. 2008 98(3):241-8.
17. Chikritzhs T, Stockwell T. The Impact of Later Trading Hours for Australian Public Houses (Hotels) on Levels of Violence. *Journal of Studies on Alcohol and Drugs*. 2002; 63:591-99.
18. Rossow I, Norström T. The impact of small changes in bar closing hours on violence. The Norwegian experience from 18 cities. *Addiction*. 2011; 107:530-7.
19. Jones C, Kyri K, Moffatt S, Borzycki C, Price B. The impact of restricted alcohol availability on alcohol-related violence in Newcastle, NSW. *Crime and Justice Bulletin*. 2009; 137:1-24.
20. NSW Liquor Act 2007 No 90 [statute on the Internet]. 2012 [cited 2012 July 1]. Available from: www.legislation.nsw.gov.au/.
21. Queensland Liquor Act 1992 Reprint No.10E [statute on the Internet]. 2012 [cited 2012 August 2]. Available from: www.legislation.qld.gov.au.

22. Police Offences Act 1935 [statute on the Internet]. 2012 [cited 2012 Dec 9]. Available from: <http://www.thelaw.tas.gov.au/index.w3p>.
23. Liquor Control Reform Act 1998 No. 94 [statute on the Internet]. 2012 [cited 2012 August 2]. Available from: www.legislation.vic.gov.au.
24. Northern Territory of Australia Liquor Act [statute on the Internet]. 2012 [cited 2012 Dec 9]. Available from: http://dcm.nt.gov.au/strong_service_delivery/supporting_government/current_northern_territory_legislation_database.
25. Alcohol Policy Coalition. Position statement: Supply of alcohol to minors in private settings. 2011 [updated Jun 2011; cited 13 Jul 2011]. Available from: <http://alcoholpolicycoalition.org.au/>.
26. World Health Organization. International guide for monitoring alcohol consumption and related harm. Geneva: WHO; 2000.
27. Stockwell T, Zhao J, Chikritzhs T, Greenfield T. What did you drink yesterday? Public health relevance of a recent recall method used in the 2004 Australian National Drug Strategy Household Survey. *Addiction* 2008; 103:919-928.
28. Stockwell T, Donath S, Cooper-Stanbury M, Chikritzhs T, Catalano P, Mateo C. Under-reporting of alcohol consumption in household surveys: a comparison of quantity-frequency, graduated-frequency and recent recall. *Addiction*. 2004; 99(8):1024-33.
29. Hall WD, Chikritzhs TN, D'Abbs PH, Room RG. Alcohol sales data are essential for good public policies towards alcohol. *Med J Aust*. 2008; 189.
30. Kinnane S, Farrington F, Henderson-Yates L, Parker H. Fitzroy Valley Alcohol Restriction Report: An evaluation of the effects of a restriction on take-away alcohol relating to measurable health and social outcomes, community perceptions and behaviours after a two year period. Perth: University of Notre Dame Australia, Drug and Alcohol Office, Government of Western Australia; 2010.
31. Skov SJ, Chikritzhs TN, Kypri K, Miller PG, Hall WD, Daube MM, et al. Is the "alcopops" tax working? Probably yes but there is a bigger picture. *Med J Aust*. 2011; 195:84-86.