



**Review of the SA Liquor
Licensing Act 1997:
Supplementary submission**

The following organisations have contributed to this supplementary submission:

The Foundation for Alcohol Research and Education (FARE) is an independent, not-for-profit organisation working to stop the harm caused by alcohol.

Alcohol harm in Australia is significant. More than 5,500 lives are lost every year and more than 157,000 people are hospitalised making alcohol one of our nation's greatest preventative health challenges.

For over a decade, FARE has been working with communities, governments, health professionals and police across the country to stop alcohol harms by supporting world-leading research, raising public awareness and advocating for changes to alcohol policy.

In that time FARE has helped more than 750 communities and organisations, and backed over 1,400 projects around Australia.

The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia and works to promote the health and well-being of all Australians. The Association seeks better population health outcomes based on prevention, the social determinants of health and equity principles.

PHAA is a national organisation comprising around 1900 individual members and representing over 40 professional groups concerned with the promotion of health at a population level.

The South Australian Network of Drug and Alcohol Services (SANDAS) was established in 2004, to enhance community wellbeing and reduce the harms associated with alcohol and drug use. As the peak body, we provide independent, state-wide representation, advocacy and support for non-government organisations working in the alcohol and other drug sector, through networking and policy development.

The Royal Australasian College of Surgeons (RACS), formed in 1927, is a non-profit organisation training surgeons and maintaining surgical standards in Australia and New Zealand. The College's purpose is to be the unifying force for surgery in Australia and New Zealand, with FRACS standing for excellence in surgical care.

The National Centre for Education and Training on Addiction (NCETA) is an internationally recognised research centre that works as a catalyst for change in the alcohol and other drugs (AOD) field. NCETA is based at Flinders University, South Australia.

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Introduction

This supplementary submission to the review of the South Australia (SA) Liquor Licensing Act 1997 ('the Review') provides illustrative models on a range of alcohol policy topics. Where models are not available for a policy topic, research evidence is provided to inform the Review's consideration of how government may respond to the policy topic in question. This supplementary submission serves as a compendium of practical reference materials that complements [the submissions to the Review](#) from:

- The Foundation for Alcohol Research and Education (submission #41)
- The South Australia Network of Drug and Alcohol Services (submissions #74 and #75)
- Public Health Association of Australia (submission #67)
- The Royal Australasian College of Surgeons (submission #71)

This supplementary submission has also been informed by input from the National Centre for Education and Training on Addiction at Flinders University, SA.

Policy models that serve the public interest in harm minimisation

1. Elevating harm minimisation as primary object of the Act

Model for consideration

The Victorian approach elevates harm minimisation as the primary object by adding a supplementary clause within the Objects section of the Act – see clause 2 in section 4 of the Victorian *Liquor Control Reform Act 1998* (Box 1). This supplementary clause states unequivocally that all decisions made under the Act must give due regard to harm minimisation and alcohol harms.

While harm minimisation is mentioned in the objects of Liquor Acts across Australian jurisdictions, only Victoria and Queensland identify their primacy.¹

In South Australia, where harm minimisation is currently mentioned as one of several statutory objects of equal standing, it is recommended that this is elevated to the primary objective.

Box 1: Objects of the Victorian liquor laws - section 4 of the Liquor Control Reform Act 1998 (VIC).

1. *The objects of the Act are –*

(a) to contribute to minimising harm arising from the misuse and abuse of alcohol, including by –

(i) providing adequate controls over the supply and consumption of liquor

(ii) ensuring as far as practicable that the supply of liquor contributes to, and does not detract from, the amenity of community life

(iii) restricting the supply of certain other alcoholic products

(iv) encouraging a culture of responsible consumption of alcohol and reducing risky drinking of alcohol and its impact on the community

(b) to facilitate the development of a diversity of licensed facilities reflecting community expectations

(c) to contribute to the responsible development of the liquor and licensed hospitality industries

(d) to regulate licensed premises that provide sexually explicit entertainment.

2. *It is the intention of Parliament that every power, authority, discretion, jurisdiction and duty conferred or imposed by this Act must be exercised and performed with due regard to harm minimisation and the risks associated with the misuse and abuse of alcohol.*

Rationale

The case of *Kordister Pty Ltd v Director of Liquor Licensing* ('Kordister') in Victoria illustrates why all licensing decisions must give regard to the principle of harm minimisation (see [supplementary reading document 1](#)).² In 2009, an application for reducing trading hours of an off-licence venue was made by police and approved. However, the licensee requested a review of this decision by the Victorian Civil and Administrative Tribunal (VCAT). As a result of the appeal the decision to reduce trading hours was removed. The VCAT decision was appealed in the Supreme Court on the grounds that the decision was not upholding the Objects of the Act (harm minimisation). It was argued that VCAT had misinterpreted the request, which was to consider if ceasing late night trading would have contributed to harm minimisation rather than the removing of harm altogether. The Supreme Court found that the decision made by the VCAT was not in line with the principle of harm minimisation, and the decision by VCAT had failed to uphold the primary objective of the Act: harm minimisation.

2. Replacing the “needs” test with a public/community interest test

Model for consideration

The public interest assessment may best be modelled on the Western Australia approach (see [supplementary reading document 2](#)). In Western Australia, licence applicants are required to undertake a Public Interest Assessment (PIA) wherein they must demonstrate that the application is in the public interest (see [supplementary reading document 3](#)). The PIA must have regard to the likely

health and social impacts on the community and subgroups within the community. This is different to other jurisdictions, such as New South Wales, where the onus of proof is placed on the community or police to demonstrate that granting the licence would not be in the public interest. In considering the public interest, applicants in Western Australia are expected to demonstrate the positive aspects of their application (including the social, economic and health impacts). Under the Western Australian model, it is not sufficient for applicants to merely demonstrate that the grant of the application will not have any negative impact.

Rationale

The public interest test is based on the principle that licensed premises must operate within the interests of the local community. This is consistent with the objects of the South Australian *Liquor Licensing Act 1997* (sections 3(1)(c)-(d)). The Western Australia model takes the view that completing the PIA should be part of an applicant's business planning and is also a valuable document for informing the community about the proposed manner of trade. A PIA and public interest test also assists the licensing authority in assessing the impact of the application, if granted, on the community, including existing services and amenity. Disadvantaged communities will benefit from this, as they are often powerless to stem the proliferation of liquor outlets and experience disproportionate levels of health and social harms.

3. Accounting for the economic burden of alcohol harms

Model for consideration

The New South Wales (NSW) Auditor-General undertook a performance audit of the *Cost of alcohol abuse to the NSW Government*. The audit asked whether: (i) the New South Wales Government effectively monitors the cost of alcohol abuse so it can resource public services to address it; and (ii) the New South Wales Government publicly reports the cost of alcohol abuse to inform the community of its impact on public services. The New South Wales Auditor-General concluded that:

[The] NSW Government does not have a complete picture of the harm caused by alcohol in terms of its costs and effects on society. We estimate the total cost of alcohol-related abuse to NSW Government services to be \$1.029 billion per annum.³

Rationale

The range and magnitude of cost associated with alcohol consumption in Australia are large. This cost is borne by drinkers, their friends and family, government, and society more broadly. Some costs impact directly on business and government, including productivity and labour costs (\$4.0 billion), healthcare (\$2.2 billion), and crime (\$1.6 billion).^{4,i} Other costs are associated with the effect of drinking on households and family members (\$1.7 billion), counselling and treatment (\$110 million), child protection (\$671 million) and the loss of life (\$4.6 billion).⁵

As stated in the New South Wales Auditor-General report, alcohol harms are a significant economic burden that must be better understood and targeted to reduce the burden in the interest of government service sustainability.

Government agencies devote much time and effort to reduce the harm caused by alcohol abuse. This ranges from proactive policing of alcohol hotspots to alcohol treatment services...

ⁱ Figures are presented in Australian dollars and indexed to CPI to reflect change in the cost of living between 2004/05 and 2008.

*These activities and initiatives come at a considerable cost to the State. This audit assessed whether the NSW Government knows the costs incurred by State agencies as a result of alcohol abuse... To design an effective response, the government must know the extent of the problem and what it is costing to limit its harm. Therefore, it is important for government to have good data on alcohol abuse including the cost to its services and to society. The community also has a right to know this information so it can inform public debate on drunkenness and the best ways to combat it.*⁶

Additional information and evidence

- See [supplementary reading document 4](#), *Cost of alcohol abuse to the NSW Government* for an analysis of the breadth and magnitude of the burden that alcohol places on state governments.

Policy models that address the availability of liquor

4. Introducing lockouts and reduced licensed trading hours

Model for consideration

Queensland may be considered a model for state-wide introduction of reduced trading hours to tackle alcohol harms by addressing the availability of liquor. The state of Queensland recently passed the *Tackling Alcohol-Fuelled Violence Legislation Amendment Act 2016* (see [supplementary reading document 5](#)).⁷ The Act established a state-wide cessation of service of alcohol at 2am for pubs, clubs and bars (or 3am for venues located in the Safe Night Out precincts, with a 'one-way door' policy barring entry after 1am), and a cessation of licensed trading for takeaway liquor after 10pm. The Queensland model is based on the measures in place in New South Wales. Newcastle has had a 3.30am last drinks and 1.30am one-way door policy in the city's CBD since 2008. In 2014, similar restrictions (1.30am lockouts, 3am last drinks) were introduced in the Kings Cross and CBD Entertainment precincts of Sydney, New South Wales (see [supplementary reading document 6](#)); a 10pm cessation of licensed trade in takeaway liquor was also introduced.

Rationale

It is imperative that a consistent state-wide approach to trading hour reductions is adopted to reduce alcohol-related harm and remove confusion regarding alcohol harm-reduction policies. As noted by Queensland Attorney General, The Hon Yvette D'Ath MP, in parliament:

*To suggest that alcohol fuelled violence is only a Brisbane problem is a myth. This is a statewide problem that needs a statewide solution. The government does not claim that the bill is a silver bullet... But what they do is reduce harm, and that reduction is significant and can lead to saving lives.*⁸

For every hour of reduced liquor trading there is a corresponding reduction in alcohol related harm of up to 22 per cent. The Newcastle policies resulted in a 37 per cent reduction in night-time alcohol-related assaults,⁹ and no displacement of harms to adjacent late-night districts.¹⁰ Five years on, the positive effects were sustained: alcohol-related assaults per hour were down by 21 per cent on average.¹¹ An independent evaluation of the restrictions by the New South Wales Bureau of Crime Statistics and Research (BoCSAR) found that they were associated with a reduction in non-domestic assaults of 32 per cent in Kings Cross and 26 per cent in the Sydney CBD. In one area, non-domestic

assaults were reduced by 40 per cent. There was no evidence of displacement of these types of assaults to adjacent areas.¹²

5. Introducing licensed outlet density/saturation policies

Model for consideration

In England and Wales, regulatory bodies have introduced saturation zones where limitations are imposed on the introduction of new licences in areas that already have a high density of existing licences. These operational saturation zones were based on existing outlet density, crime and family violence data.^{13,14} This review should consider outlet density and saturation zone policies, as well as what reasonable regional and state-wide limits should be put on the growth of current liquor licences in comparison to population growth in the state. The Californian model has also been demonstrated to be effective in reducing alcohol-related harm, with the number of on-premise and off-premise licences limited to one per 2,000 people and one per 2,500 people, respectively.

Rationale

Tighter outlet density controls and interventions are needed to address outlet density and associated harms. Research has consistently found that increased outlet density (both hotel, on- and off- licence types) contributes to increased alcohol harms.¹⁵ The World Health Organization has highlighted that neighbourhoods which have higher densities of alcohol outlets (both on- and off- licence) also have greater child maltreatment problems. These neighbourhoods are also more socially disadvantaged with fewer resources available to support families. This situation can lead to increased stress for families and restrict development of social networks that can reduce child maltreatment.¹⁶

In California, the number of general on-premise licences is limited to one per 2,000 people and the number of off-premise licences is limited to one per 2,500 people.¹⁷ Research examining the effect of reductions in alcohol outlet densities that resulted from damage inflicted by riots in Los Angeles demonstrated that reduced alcohol availability resulted in decreased rates of assault.¹⁸ Interestingly, these data have also been analysed with respect to sexually-transmittable infections, with rates of gonorrhoea also reducing as a result of reduced outlet density.¹⁹ These findings support restriction of alcohol licence densities, to reduce alcohol-related violence and other harms.

Additional information and evidence

- A recent study examining associations between alcohol sold through off-premise liquor outlets and the incidence of traumatic injury in surrounding areas found that each additional chain outlet (such as Dan Murphy's and First Choice Liquor) was associated with 35.3 per cent increase in intentional injuries (including assaults, stabbing and shooting), and a 22 per cent increase in unintentional injuries (including falls, crushes, or being struck by an object).^{20,21}
- A study by the New South Wales Bureau of Crime Statistics and Reporting found that "the concentration of hotel licences in a [local government area, or LGA], particularly at higher density levels, was strongly predictive of both intimate partner and non-intimate partner assault rates".²²
- Research in Melbourne has found that there is a strong association between family violence and the concentration of off-licence (packaged or takeaway) liquor outlets in an area. The study concluded that a ten per cent increase in off-licence liquor outlets is associated with a 3.3 per cent increase in family violence. Increases in family violence were also apparent with the increase in general (pub) licences and on-premise licences.²³

- In Western Australia, a study concluded that for every 10,000 additional litres of pure alcohol sold at an off-licence liquor outlet, the risk of violence experienced in a residential setting increased by 26 per cent.²⁴
- Research from Victoria found that people living in disadvantaged areas in and around Melbourne had access to twice as many bottle shops as those in the wealthiest areas. For rural and regional Victoria, there were six times as many packaged liquor outlets and four times as many pubs and clubs per person.²⁵
- Research also shows that the increased access to alcohol in disadvantaged communities may explain some socioeconomic disparities in health outcomes. Disadvantaged communities find it harder to influence planning and zoning decisions. As such, their ability to prevent the continuing proliferation of outlets is hindered.²⁶

6. Addressing the intersection between the planning system and liquor regulation

Model for consideration

Alcohol-related violence and other antisocial behaviour may be mitigated by recognising and addressing risk factors during planning. While no jurisdiction can be identified as presenting an optimal model for addressing alcohol-related harm through civic planning processes, existing research provides a number of examples for inclusion in planning considerations. Such considerations include those related to infrastructure, and those related to entertainment spaces (public realm design).

Rationale

Entertainment precincts attract large groups of people with distinct peaks during the evening and early morning. Trading on weekend nights in Kings Cross, for example, attracts an estimated 30,000 revellers.²⁷ Public transport, however, ceases well before trading ends. This may lead to transport issues and subsequent problems (such as drink driving). Victoria has moved to provide better late-night public transport options to address such issues, and may be used as a model with respect to such measures. It is recommended that similar measures are incorporated into civic planning in South Australia.

Through regulation and planning, public realm design may facilitate continued business operation while minimising associated harms to the community. In particular, ensuring that the general layout of areas is free from congestion, and provides adequate access points, can serve to reduce aggression among revellers.²⁸ Similarly, adequate lighting is important to discourage anti-social and criminal activities. Research has demonstrated that improvements to street lighting in the United Kingdom and United States precincts have decreased crime by 21 per cent.²⁹

It is important that venues actively work to reduce the impact of their operation on local residents. Ensuring that measures are in place to reduce noise and light pollution (balanced against appropriate levels of street lighting) improves the amenity of an area for local residents. Such factors should be included in consideration of Development Applications, with licenced venues required to address specific criteria to reduce alcohol-related harm and disturbance to surrounding areas.

7. Regulation of small bars

Additional information and evidence

- A forthcoming research paper *Safer places and small bars*, prepared by FARE and the Adelaide City Council, will be released in the week of 18 April 2016 and provided to the Review for consideration.

8. Introducing risk-based licensing

Model for consideration

South Australia should follow the lead of the Australian Capital Territory and New South Wales, and introduce a consistent risk-based licensing system that recovers costs associated with administration of the Act, law enforcement, and provision of public services responding to alcohol harms (including ambulance and police, emergency departments, social workers, and alcohol and other drug treatment services).

Under the Australian Capital Territory model, on-trade licensees pay a base fee according to venue type, with additional fees levied for each trading hour beyond midnight and occupancies greater than eighty patrons. The annual licence renewal fees paid by off-trade licensees are based solely on the gross liquor purchase value for the annual reporting period. As illustrated in Table 1, shorter trading hours and smaller occupancies for on-trade licences incur lower fees.³⁰ For off-trade licensees, renewal fees range from \$532 per annum for less than or equal to \$5,000 gross liquor purchased, to \$27,355 per annum for more than \$7,000,000 gross liquor purchased.³¹

Table 1. Australian Capital Territory risk-based licensing fee variables

Licence	Occupancy (pax)	Trading liquor until	Licence fee (per annum)
Nightclub	350	5am	\$25,184
Bar	350	5am	\$16,790
Nightclub	80-150	1am	\$8,394
Restaurant	350	5am	\$8,394
Bar	80-150	1am	\$5,595
Restaurant	80-150	1am	\$2,797

Under the New South Wales model (see [supplementary reading document 7](#)), every liquor licence is required to pay an annual liquor licence base fee plus a trading hours risk loading. Base fees for off-licences are escalated by the number of bottle shops owned by the business possessing the licence, ranging from \$500 per licence where a business owner has three or less outlets, to \$2,000 per licence where a business owner has more than nine outlets. Venues caught breaching their licence conditions, committing an offence under the ‘three strikes disciplinary’ scheme or being on the ‘violent venues list’ incur a range of extra risk-based loadings for non-compliance.

Rationale

The costs of administering the liquor regulation system and costs of alcohol harms borne by government services need to be accounted for and recovered by those who benefit from the system: licensees. Unlike the Australian Capital Territory and New South Wales, South Australia does not escalate fees by an amount commensurate with the risks that on- and off-licences pose to the community. South Australia’s annual licence fees are considerably lower than those found in the Australian Capital Territory and New South Wales. For example, the annual fee for a ‘Retail Liquor

Merchant' equivalent in the Australian Capital Territory is between \$575 and \$29,586 depending on the volume of liquor sold;³² whereas Retail Liquor Merchants in SA only pay a flat fee of \$758 annually.

9. Modernising secondary supply policies

Model for consideration

We strongly encourage South Australia to control the supply of alcohol to minors in private settings. Secondary supply laws came into effect in Western Australia on 20 November 2015. It is an offence for a person to supply liquor to a juvenile without the consent of the juvenile's parent or guardian. Where appropriate consent is provided, responsible supervision practices must be observed. The laws are supported by appropriate penalties – see section 122A (Supplying juveniles with alcohol on unlicensed premises) of the Western Australian *Liquor Control Act 1988* (Box 2).

Box 2: Selected components of the Western Australian liquor laws - section 122A of the Liquor Control Act 1988 (WA).

.....
(2) *A person must not supply liquor to a juvenile unless that person is on unlicensed premises and the person —*

- (a) *is the parent or guardian of the juvenile; or*
- (b) *subject to subsection (3), has obtained the consent of the parent or guardian of the juvenile to supply liquor to the juvenile on those premises.*

Penalty: a fine of \$10 000.

(3) *Where under subsection (2)(b) a person has obtained the consent of the parent or guardian of a juvenile to supply liquor to a juvenile on unlicensed premises, the person must not supply the liquor —*

- (a) *if, at the time that the parent or guardian of the juvenile gives consent, the parent or guardian is drunk; or*
- (b) *if the person is drunk; or*
- (c) *if the juvenile is drunk; or*
- (d) *if the person is unable to supervise the consumption of the liquor by the juvenile; or*
- (e) *in circumstances prescribed by the regulations.*

Penalty: a fine of \$10 000.

Rationale

The National Health and Medical Research Council's (NHMRC) *Australian guidelines to reduce health risks from drinking alcohol* recommend that for persons under the age of 18, not consuming alcohol is the safest option.

Controls on the secondary supply of alcohol to minors in South Australia would 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.

South Australia is now the only Australian jurisdiction without controls on the provision of alcohol to minors in a private setting. Secondary supply legislation is in place in New South Wales (since 2007), Queensland (since 2009), Tasmania (since 2009), Victoria (since 2011), the Northern Territory (since 2011), the Australian Capital Territory (since 2015) and Western Australia (since 2015).

10. Strengthening community input to liquor outlet approvals

Model for consideration

No jurisdiction may be identified as presenting a model for community engagement, as each currently lacks targeted support for communities to interact with the liquor licensing or planning systems. This results in unsuccessful objections and complaints, and lack of community engagement with these systems. The development and funding of a Community Defenders Office based on the Alcohol Community Action Project (ACAP) pilot would help individuals and communities in navigating and interacting with the liquor licensing system.

The Alcohol Community Action Project (ACAP), was a pilot project funded by the Australian Rechabite Foundation and administered by the Foundation for Alcohol Research and Education. The purpose of ACAP was to assist individuals and organisations who wanted to interact with the liquor licensing and planning systems with the aim to reduce alcohol harms in their community. The pilot project consisted of two key resources: a community adviser and a website. The ACAP project successfully assisted numerous communities within New South Wales to lodge objections to liquor related development applications and liquor licences applications and provided advice to individuals who were not aware of their rights when dealing with licensing applications. The demand experienced by the ACAP project during the pilot demonstrates the need within the community for such a service.

Rationale

In South Australia, there is limited opportunity for community engagement with liquor licensing and planning decisions. The complexity of the legislative and regulatory environment for liquor in South Australia poses a range of barriers to community members who seek to navigate this legislative and regulatory landscape. The hurdles that community stakeholders are confronted with are threefold, relating to legislative, regulatory and resource challenges. These challenges discourage community participation; limit the ability of stakeholders to present consequential objections or complaints; and exclude some stakeholders from the process altogether. The concern here is that warranted complaints and objections may be overlooked, or never made to the regulatory authorities.

Research evidence for consideration

- See [supplementary reading document 8](#) Foundation for Alcohol Research and Education. (2013). *Breaking down barriers: Community involvement in liquor licencing decisions in NSW*.
- See Brown, T. (2014). Strengthening community input in liquor outlet approvals. In *Stemming the tide of alcohol: Liquor licensing and the public interest*. Canberra: Foundation for Alcohol Research and Education.
- See information regarding the Alcohol Community Action Project (ACAP) pilot program, available at <http://acap-nsw.org.au/>.

Policy models that address packaged liquor

11. Understanding the contribution of packaged liquor to harms

Rationale

Alcohol harms are not limited to on-licences. Most (80 per cent) of alcohol consumed in Australia is take-away or packaged liquor purchased from off-licence premises.³³ Off-licence premises should be treated objectively and equally in considering the volume of alcohol such businesses make available to localities, and the associated risks of greater liquor availability. Understanding the contribution of packaged liquor to harms enables the regulatory agency to determine how to assess the risk profile of new and existing off-licence premises. This enables governments to determine how best to mitigate those risks and reduce the economic burden of government responses to associated harms.

Research evidence for consideration

- Recent studies have demonstrated an association between alcohol sold through off-premise liquor outlets and the incidence of traumatic injury in surrounding areas.^{34,35}
- Research in Melbourne has shown an association between family violence and the concentration of off-licence (packaged or takeaway) liquor outlets in an area.³⁶
- A Western Australian study has highlighted the relationship between the volume of pure alcohol sold at off-licence liquor outlets and the risk of violence experienced in a residential setting.³⁷
- Research has demonstrated vulnerability of low socioeconomic status and rural areas through alcohol availability, by examining bottle shop density in disadvantaged and rural areas of Victoria.³⁸
- Research has found socioeconomic disparities and adverse health outcomes resulting from access to alcohol in disadvantaged communities.³⁹

12. Moratorium on the sale of liquor in supermarket settings

Model for consideration

We strongly encourage the continuation of the restriction on the sale of liquor within South Australian supermarkets and other varied retail settings – see section 37 (retail liquor merchant’s licence) of the South Australian *Liquor Licensing Act 1997* (Box 3).

Box 3: Selected components of the South Australian liquor laws - section 37 of the Liquor Licensing Act 1997 (SA).

.....
(2) It is a condition of a retail liquor merchant's licence that the licensed premises must be devoted entirely to the business conducted under the licence and must be physically separate from premises used for other commercial purposes.

Exceptions—

1 Goods may be sold in the same premises if they are of the kind normally associated with, and incidental to, the sale of liquor (eg glasses, decanters, cheeses and pates).

2 The licensing authority may grant an exemption from the above condition if satisfied that the demand for liquor in the relevant locality is insufficient to justify the establishment of separate premises or there is some other proper reason for granting the exemption.

Rationale

Alcohol is not an ordinary commodity. It is an inherently risky product with the potential to cause significant short and long term harms to drinkers and others, and deserves to be treated differently to other consumer products and grocery items.

Any weakening of the existing controls on the retail sale of alcohol would have significant implications for the physical and economic availability of alcohol in the community. Substantial evidence from Australia and elsewhere shows that increasing access and availability of alcohol leads to increased rates of alcohol related harm in the population.

We are aware of interest from some commercial groups to allow the sale of alcohol in supermarket settings. This is particularly concerning from a public health perspective. The sale of alcohol within supermarkets would contribute to the normalisation of alcohol, particularly among young people, through treatment of alcohol as a normal grocery item and as part of the everyday grocery shopping experience. It would also contribute to young people's exposure to alcohol promotion and to the availability of alcohol in a place young people are likely to visit.

13. Regulation of online liquor sales

Model for consideration

It is recommended that South Australia adopts components of the New South Wales model of internet sale regulation by addressing the requirements of such sales specifically within legislation.

The current legislation includes sales made via the internet and other media under 'direct sales transactions'. Although interpretation of such sales encompasses delivery to the purchaser, or a person nominated by the purchaser, it does not specifically allow for the features of such transactions that are distinct from other purchases.

Specifically, legislation should disambiguate terminology with respect to receipt of the alcohol in person. It should be clear that receipt of alcohol by persons under the age of 18 years contravenes

clauses relating to the sale of alcohol to minors. The legislation should also require that licence details and signage relating to responsible service of alcohol are clearly visible on the internet site used for delivery sales. Moreover, it is important that same-day delivery hours are stipulated, and consistent with trading hour restrictions of takeaway stores.

Box 4: Selected components of the NSW liquor laws - section 114 of the Liquor Act 2007 (NSW).

.....
(1) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order must cause the licence number to be displayed in any advertisement or information published in writing or electronically in connection with such sales. Maximum penalty: 20 penalty units.

(2) A licensee who sells liquor through an internet site must ensure that the licence number is prominently displayed on the site and in any advertisement or information published in writing or electronically in connection with such sales. Maximum penalty: 20 penalty units.

(3) A licensee who sells liquor by taking orders over the telephone or by facsimile or by mail order, or who sells liquor through an internet site:

(a) must, at the time at which an agreement for sale is made, require the prospective purchaser to supply the purchaser's date of birth so as to confirm that the prospective purchaser is of or above the age of 18 years, unless the prospective purchaser has previously supplied the purchaser's date of birth to the licensee, and

(b) must give written instructions to the person responsible for delivery of the liquor, requiring that the liquor be delivered:

(i) to the adult person who placed the order, or

(ii) to another adult person at those premises who undertakes to accept it on behalf of the person who placed the order, or

(iii) if the delivery is made on a day after the day the order is taken, or the sale made through an internet site, in accordance with the customer's instructions.

Maximum penalty: 20 penalty units.

(4) If delivery of any liquor sold in a manner described in this section is taken by a minor:

(a) the delivery is taken to constitute a supply to which section 117 (2) applies, and

(b) the licensee, and any person by whom the liquor was delivered on the licensee's behalf, are each taken to have supplied the liquor contrary to section 117 (2).

...

(7) A minor must not take delivery of any liquor sold in a manner described in this section unless the minor was ordered or requested by his or her parent or guardian to take delivery of the liquor. Maximum penalty: 20 penalty units.

(8) A person must not order or request a minor to take delivery of liquor sold in a manner described in this section. Maximum penalty: 30 penalty units.

Rationale

Internet sales and delivery of alcohol present unique risks with respect to provision of alcohol to minors. Innovative business models, such as those providing delivery services, must be adequately accounted for in legislation. Current ambiguity means that delivery of alcohol to unattended residences may or may not represent delivery to the purchaser or a person nominated by the purchaser. In order to prevent planned, opportunistic or accidental receipt of alcohol by minors, it is important that legislation relating to internet sales and other alcohol delivery services is further developed.

14. Addressing public drinking and “dry” area policies

Additional information and evidence:

- A separate supplementary submission on dry area policies will be submitted by the South Australian Network of Drug and Alcohol Services (SANDAS).

Policy models that address the price and promotion of liquor

15. Introducing minimum unit pricing

Model for consideration

While no optimal Australian model may be identified with respect to minimum unit pricing, international evidence suggests that this is an effective policy measure to address alcohol-related harm. Measures to limit harmful price discounting can be implemented at the state and territory level, similar to models introduced in the Canadian counties of British Columbia and Saskatchewan. In particular, components of the Saskatchewan model are recommended, including minimum unit prices on the basis of alcohol concentration ranging from approximately A\$1.00 to A\$1.50. Minimum unit prices should be indexed to the average weekly ordinary time earnings to prevent the cost reducing relative to income.

Rationale

Price-based promotions, such as bulk buying specials, are common practice by retailers. Such promotions can be regulated through the introduction of a minimum price for alcohol that specifies the lowest price at which alcohol can be purchased. For Australian states and territories that have promotions guidelines, definitions of what constitutes extreme discounting or harmful promotions is largely left to the licensee. As a result of extreme discounting promotions, alcohol can currently be purchased for as cheap as 18 cents per standard drink.⁴⁰ This is problematic because lower prices are associated with increased consumption and harms.

States and territories have a role in reducing alcohol-related harm through regulation of the sale of cheap alcohol. Point of sale promotions, which involve price or volume discounts, have been found to encourage the purchase of increased volumes of alcohol,^{41,42} and are likely to affect overall consumption patterns of underage, harmful, and regular drinkers.⁴³ Alcohol dose (at both individual and population levels) is directly related to harm, with cheap alcohol sought by the heaviest drinkers.⁴⁴ The availability of large quantities of cheap alcohol through takeaway sales (such as cheap cask wine)

contributes to harmful short- and long-term consumption. An effective and equitable policy measure to reduce such risks is a minimum price of standard units of alcohol.

Canadian research demonstrates that minimum unit pricing has been effective in British Columbia (BC) and Saskatchewan, and that changes to the set minimum price has a considerable impact on consumption. A ten per cent increase in the minimum unit price was shown to result in a 3.4 per cent decrease in consumption in BC,⁴⁵ and an 8.4 per cent decrease in Saskatchewan (where minimum unit prices are higher).⁴⁶ Minimum prices in these counties are set on the basis of beverage type and alcohol concentration, respectively.^{47,48}

While evidence in England suggests that a ban on below-cost sales has had a small effect on consumption and related harm, a minimum unit price of between £0.4 and £0.5 (A\$0.75 to A\$0.94) would result in a reduction that is 40 to 50 times greater.⁴⁹ Modelling suggests that introduction of a minimum unit price of £0.4 (A\$0.85) would result in a modest 1.6 per cent reduction in consumption overall (11.6 standard units less per drinker annually).⁵⁰ A much larger reduction would be observed among heavy drinkers, with a minimum unit price resulting in a 3.7 per cent (138.2 standard units per annum) reduction. Among the quintile of lowest income, a reduction of 7.6 per cent (299.8 standard units per annum) would be achieved. Indexing the minimum unit price is important to maintaining its effectiveness in reducing irresponsible promotion activities. It is recommended that indexing is conducted on the basis of average weekly ordinary time earnings, to ensure that the cost does not reduce relative to income.

Research evidence for consideration

- Research has provided comprehensive modelling of consumption outcomes that would result from introduction of minimum unit pricing in the United Kingdom.⁵¹
- Research has examined results relating to the impact of changes to minimum unit pricing on alcohol consumption in British Columbia and Saskatchewan.^{52,53}

16. Regulation of marketing and promotions

Model for consideration

Regulations should be introduced in relation to the online practices of liquor licences in South Australia, following the example of Victoria. The Victorian guidelines for responsible liquor advertising and promotions are more comprehensive, and include internet advertisements, websites, social media (such as Facebook or Twitter) and SMS text messages. The Victorian guidelines also note that “licensees should be aware that they may be responsible for advertisements on social media sites. This includes comments made by third parties, and advertisements and promotions made by promoters engaged by the licensee”.⁵⁴

In relation to alcohol advertising on state property, the South Australian Government should expand upon the model set in the Australian Capital Territory and remove advertisements on all state property, including public transport. This should include controls on the placement of alcohol advertisements in public spaces, specifying types of places and distances from sensitive places where alcohol advertising is not permitted.

Shopper docket liquor promotions should also be banned in South Australia. A ban on shopper dockets as a promotional activity for liquor is complementary to the current policy of preventing supermarkets from selling alcohol, which avoids positioning alcohol as an ordinary consumer commodity. Companies like BWS sell three five-litre casks of wine for \$33 (the equivalent of 22 cents a standard drink) as part

of bulk buying promotions. Ceasing harmful price discounting will reduce risky alcohol consumption and discourage risky practices, such as preloading, by minimising the price differential between on- and off- licence premises.

The Code should assign equal attention to the promotions practices of on- and off- licence premises. To that end, measures to limit harmful price discounting and promotional activities should be introduced. The South Australian Government has a role to play in protecting children from exposure to alcohol advertising. In 2012, the self-regulatory alcohol advertising body, the Alcohol Beverages Advertising Code (ABAC) made a determination that the Bacchus Shot Bucket is irresponsibly packaged and marketed at young people.⁵⁵ While this decision was made by the ABAC, the Shot Bucket remained on store shelves across Australia because the Bacchus Distillery Pty Ltd is not a signatory to the ABAC scheme and is not obliged to act on the ABAC's decision. Despite contravening the alcohol industry's own self-regulatory body guidelines, state regulatory bodies were powerless to prevent the irresponsible marketing and promotion of the Bacchus Shot Bucket. When brought to the attention of the South Australian Liquor and Gaming Commissioner, no action appears to have been taken, with the Commissioner indicating that his office would "monitor the marketing and sale of the product in South Australia".⁵⁶ This example highlights the need to expand existing legislative frameworks to provide the South Australian Government more power to address problematic and unethical alcohol promotions.

Rationale

Research has demonstrated that the current self-regulatory system for alcohol advertising is ineffective,^{57,58,59} and that Australians would favour more stringent regulations.⁶⁰ Given the relationship between marketing and promotional activities and consumption, particularly among children and adolescents, it stands in the public interest that more effective measures are put in place to reduce alcohol-related harm.

Additional information and evidence

- See Jones (2014) for more information regarding point-of-sale alcohol promotion and related risks in Australia.⁶¹

Policy models for monitoring the market and harms

17. Collection and publication of harms data

Model for consideration

New South Wales provides a model for effective collection and publication of harms data. Harms data in New South Wales is collected through a number of agencies. The Bureau of Crime Statistics and Research (BoCSAR) collects and reports on alcohol-related assaults on police, domestic and non-domestic assaults and offensive behaviours in each local government area. New South Wales Health collects and publishes data on alcohol-attributable hospitalisations, deaths, injuries and emergency department presentations. The South Australian Office of Crime Statistics and Research (OCSAR) should publish data sets for assaults (including domestic assaults) which are coded for alcohol involvement and the South Australian Department of Health should publish the data sets for hospitalisations, emergency department presentations and ambulance attendances that code for alcohol involvement. OCSAR and the South Australian Department of Health should also collect and

report on data on place of last drink as this would provide valuable information on which premises or areas are associated with harm incidents.

Rationale

Data on alcohol-related hospital presentations is not routinely collected in South Australian hospitals. Subsequently, independent studies are relied upon as one of the few sources of information in this area. As an example, a study conducted by the Australasian College of Emergency Medicine (ACEM), found that one in twelve presentations to emergency departments in Australasia are alcohol related. This figure increases to one in seven on weekends. According to ACEM “This is the biggest public health challenge facing our emergency departments.”⁶² While such studies are useful, their ad-hoc nature means they cannot be relied upon in the ongoing development and monitoring of public policy.

In addition to a shortfall in health data, there is also a lack of publically available crime data in South Australia. The Office of Crime Statistics and Research (OCSAR) does not routinely receive or access data from the South Australian Police (SAPOL) regarding the involvement of alcohol in criminal offending. This significantly hinders its ability to achieve these stated objectives. In the most recent *South Australia Police Annual Report 2014-2015*⁶³ and OCSAR’s *Offence Profile for South Australia in 2014*,⁶⁴ the majority of alcohol harms data reported relates to drink driving. The South Australian Police report contains some information regarding Public Order Offences (which primarily comprise possession and consumption of liquor in a public place and offensive/disorderly conduct in or near licensed premises), however this data is limited.

Expanding the collection of health and crime data to include information on the involvement of alcohol is an important step in understanding the impact and cost of alcohol on the South Australian health system. These indicators should be compiled annually and presented to Consumer and Business Services and the Attorney General to inform decision making on alcohol policies. Without the collection and reporting of these data, policy-makers are ‘flying blind’ in their pursuit of effective and evidence-based harm prevention. Alcohol harms data has been a critical tool for the conduct of research to inform policy-makers of the impact of the current system and efficacy of alcohol policy changes, for example:

- The City of Newcastle, New South Wales, late-night trading hour restrictions and RSA operations policy.
- The Sydney CBD and Kings Cross, New South Wales, late-night trading hour restrictions and RSA operations policy.
- A recent study examining associations between alcohol sold through off-premise liquor outlets and the incidence of traumatic injury in surrounding areas.⁶⁵
- A study of the effects of changes in the number of off-licence alcohol outlets in neighbourhoods in Melbourne over time and domestic violence rates.⁶⁶

18. Collection and publication of alcohol sales data

Model for consideration

No jurisdiction can be identified as presenting an optimal model for alcohol sales data, as a range of inconsistencies present limitations with respect to the use of data and clear gaps exist in what each jurisdiction collects. The National Alcohol Sales Data Project, a joint initiative between the Western Australia Drug and Alcohol Office and the National Drug Research Institute at Curtin University, has

highlighted the value of standardised collection and analysis of alcohol sales data.^{67,68} Research conducted by the Centre for Alcohol Policy Research⁶⁹ provided the following recommendations for inclusion in a nationally-consisted alcohol sales data collection:

- Transaction-level data on sales from wholesalers and producers to retailers who sell alcohol to the public. This level of detail will allow for monthly, quarterly or annual estimates of sales as appropriate.
- Retail outlet-level data, with standard public reporting of the data limited to appropriate geographical units (such as postcode), leaving open the possibility that more detailed data can be utilised for specific policy-relevant purposes.
- Data on price and volume should be included for each transaction.
- Product variety should be recorded, including beer by strength, bottle and cask wines, spirits by type and cider.

Rationale

South Australia is the only jurisdiction that doesn't collect wholesale sales data. Retail sales data (in terms of volume of pure alcohol sold) is valuable for risk-based licensing for online/direct and retail packaged liquor outlets. These data ensure that licensing fees and risk assessments are objectively tied to risks associated with their contribution to the availability of alcohol in an area. It also facilitates the development and assessment of evidence-based policy to deliver harm reduction while minimising adverse impacts on business operations.

Additional information and evidence

- See [supplementary reading document 9](#) for further information regarding current data collection and recommendations for a consistent national approach.⁷⁰

19. Investing in compliance and enforcement

Model for consideration

Swift and certain sanctions are strong and predictable deterrents of offensive and dangerous conduct. Professor of Public Policy at the University of California, Mark Kleiman, contends that “if punishment is swift and certain, it need not be severe to be efficacious. If punishment is uncertain and delayed, it will not be efficacious even if it is severe”.⁷¹ Dr Kleiman proposes that this approach is applicable to most contexts of law enforcement.⁷²

Temporary closures of venues are meaningful sanctions and a practical aid for emergency services to help victims of alcohol-related crimes on licensed premises, and to preserve the associated crime scene and safety of patrons at the premises in question. The Act should define what “prevailing conditions” justify a temporary closure. This should include alcohol-related assaults on licensed premises, or near the entry or exit points of licensed premises.

Controlled Purchase Operations (CPOs) may provide an important tool to support the effective monitoring and enforcement of existing laws which prohibit the sale of alcohol to minors. SA Health regularly undertakes CPOs to support the *Tobacco Products Regulation Act 1997*.⁷³ CPOs should also be conducted for responsible service of alcohol enforcement at both on- and off-licence venues in order to monitor and enforce the Act.

CPOs are effectively used in New Zealand to monitor and enforce provisions relating to the sale of liquor to minors and in the United Kingdom (called ‘test purchase operations’) to support the enforcement of legislation relating to the sale of age-restricted products including alcohol and tobacco. Detailed guidelines outline how CPOs are conducted. The New Zealand High Court has found that CPOs are a fair test for licensees and constitute entrapment.^{74,75}

CPOs would reduce underage young people’s access to alcohol by enabling police to monitor and enforce the existing law which prohibits the sale of alcohol to minors.

Rationale

Public safety and wellbeing would be well-supported by swift enforcement and certain warnings and penalties for liquor industry operators and their staff in breach of the Act and its instruments. The ease with which some minors can purchase alcohol indicates a need for rigorous enforcement for the direct sale of alcohol to young people.

Additional information and evidence

- See [supplementary reading document 10](#): New Zealand Health Promotion Agency. Guidelines for conducting controlled purchase operations, March 2014.

Supplementary reading: Supporting evidence and information

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