

# Submission on draft South Australia Liquor Licensing (Misc) Amendment Bill 2025

February 2025



## About FARE

The Foundation for Alcohol Research and Education (FARE) is the leading not-for-profit organisation working towards an Australia free from alcohol harms.

We approach this through developing evidence-informed policy, enabling people-powered advocacy and delivering health promotion programs.

Working with local communities, values-aligned organisations, health professionals and researchers across the country, we strive to improve the health and wellbeing of everyone in Australia.

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## Executive summary

All South Australians should have the opportunity to be healthy, safe and free from the many ways that alcohol causes harm to people, families and communities. Yet alcohol continues to contribute to chronic diseases like cancer, and to domestic, family and sexual violence, disability, homelessness, self-harm and suicide. Tragically, Australia is experiencing the highest rates of alcohol-induced deaths in over 20 years.<sup>1</sup> Alcohol is no ordinary commodity, it is a harmful product, and its harmful impacts intersect and interact in complex ways.

South Australia needs effective, evidence-informed regulatory controls to address and reduce these harms. However, the laws that exist to keep people safe and protect them from harm have not kept pace with the way that alcoholic products are marketed, sold and delivered. Alcohol harms are exacerbated by the rapid expansion of online sale and delivery (OS&D) of alcohol, which has vastly increased availability and accessibility, creating unique risks to community health and safety.

Alcohol is a significant contributor to gender-based violence in Australia, increasing its frequency and severity of violence.<sup>2</sup> The *'Rapid Review of Prevention Approaches to End Gender-Based Violence'* report recommended governments review and strengthen alcohol laws by adopting primary objectives to prevent gendered violence and by limiting alcohol sales and delivery timeframes and advertising.<sup>3</sup> The National Cabinet also agreed to review alcohol laws and their impact on family and domestic violence to identify and share best practice and reforms and to report back.<sup>4</sup>

The SA Government has the power to keep women and children safe by better regulating the way alcohol is sold and delivered. Measures proposed in the draft SA *'Liquor Licensing (Miscellaneous) Amendment Bill 2025'* (draft Bill), respond to the Rapid Review and National Cabinet, by:

- **Adopting gendered violence in the primary objects**, establishing harm minimisation as the paramount object of the Liquor Licensing Act and inserting gender-based violence as part of the definition of alcohol harm. This provides greater clarity of purpose and removes the conflict existing in the Act with multiple potentially competing objects.
- **Restricting sale and delivery timeframes**, amending delivery timeframes to between 10am and 10pm and preventing rapid delivery by establishing a 2-hour safety pause between sale and delivery. This reduces the risk of alcohol-related domestic, family and sexual violence and suicide, which increase later at night, and prevents extending higher-risk alcohol use.

FARE commends the SA Government for being the first jurisdiction to act on these recommendations. We urge the Government to table and pass this Bill without delay. These reforms can also be further strengthened by implementing a small number of additional measures.

Every phone is now a bottleshop. The rapid shift from public, physical, licenced premises to private, digital, unlicenced OS&D, is a step change in alcohol accessibility. This change in alcohol availability needs a corresponding change in alcohol regulation. SA began to address the rapidly evolving risks of alcohol harms from OS&D in 2018, implementing some important measures like offences to supply to people under 18, delivery ID checks and collecting sales data.

Regulatory measures for OS&D should also aim to be relevant now and into the future. This is important in an area where alcohol supply has changed rapidly, and legislation has not kept pace. The SA Government needs to implement further OS&D measures, including:

- effective online sales ID checks, (making the offence to sell online to under 18s enforceable).
- offence to leave delivery unattended.
- collection of geographic delivery data, and test purchasing.
- OS&D license category and delivery-specific Responsible Service of Alcohol training.

We welcome the South Australian Government's proposed changes to the Liquor Licensing Act 1997 to address the Rapid Review recommendations, National Cabinet commitment and regulation of OS&D of alcohol. We thank the South Australian Government for the opportunity to make this submission on the draft *"Liquor Licensing (Miscellaneous) Amendment Bill 2025"*.

# Recommendations

## FARE recommends.

Section (“s”) numbers refer to the SA Liquor Licensing Act 1997 unless otherwise noted.

## FARE urges the SA Government to table and pass this Bill.

### 1. Gendered violence and the objects

**Recommendation 1.** FARE supports prioritising harm minimisation in the Act, by making it the paramount object of the Act and including gender-based violence in the definition of alcohol harms.

### 2. Late night and rapid delivery

**Recommendation 2.** FARE supports the amendment to delivery start times from 8am to 10am in the relevant licence conditions. The Act s70 also needs amending to specify that delivery hours may not be extended beyond 10am to 10pm and to align trading hours for the sale of takeaway alcohol with the new delivery trading hours, ie. between 10am and 10pm.

**Recommendation 3.** FARE supports the amendment to the relevant licence conditions to introduce a 2-hour safety pause between the order and delivery of alcohol to prevent higher-risk rapid delivery.

**Recommendation 4.** FARE supports the scope of OS&D measures applying to all OS&D of alcohol, by retaining no distinction between same day and non-same day delivery.

### 3. ID checks and offences

**Recommendation 5.** FARE supports retaining the current requirements in the Liquor Regulations for effective ID checks on delivery of alcohol.

**Recommendation 6.** FARE supports retaining the offence for the selling or supplying of alcohol to people under 18 years old. The Act s107A also needs amending to clarify that selling or supplying includes selling online and delivery to people under 18 under old and to establish a specific offence for leaving an alcohol delivery unattended.

## The urgent reforms above can be further strengthened by implementing the following OS&D reforms.

**Recommendation 7.** Amend the Act s107A to require effective digital proof of age, (collecting ID data safely), eg. Australia Post Keypass ID, as an effective ID check for online sales.

**Recommendation 8.** Amend the Act s107 to remove the exception in (2)(a) and (b) that permits people under 18 years old to sell alcohol. Amend the offences and penalties in s110 and s110A for people under 18 years old and replace them with confiscation and education responses.

### 4. Predatory marketing

**Recommendation 9.** Amend the Act, adding new clauses to specifically ban unacceptable marketing practices, including those listed in General Code of Practice Clause 9, with appropriate penalties. Extend the list of unacceptable promotional practices to the digital marketing of OS&D, including prohibiting retailers from offering delayed payment; sending direct prompts; ‘buy-now’ buttons or offering incentives for a minimum spend or volume.

**Recommendation 10.** Amend the Act s107A to require retailers with online advertising targeting SA, to include on their websites at least three prescribed rotating health warning statements about the risk of harm from alcohol, with a link to the *Australian guidelines to reduce health risks from drinking alcohol*.

### 5. Compliance and data

**Recommendation 11.** Amend the Act s109A to require retailers to report the volume of alcohol sold online and delivered by geographic area. Publish regular sales and delivery data reports to enable research and compliance monitoring of sales.

**Recommendation 12.** Require retailers to keep records on deliveries refused because recipient was under 18, did not provide evidence of age or was intoxicated. Publish regular reports on compliance and enforcement to enable research and monitoring of deliveries and frequency of issues.

**Recommendation 13.** Amend the Act and Regulations to prescribe test purchasing operations to ensure compliance with the OS&D requirements (such as not supplying alcohol to children under 18 years of age), for both sales and delivery.

## **6. Licensing and risk factors**

**Recommendation 14.** Amend the Act Division 2 subdivision 2 ‘*Ongoing licences*’ to establish a separate, specific liquor licence for OS&D, to align the administration, licence fees and conditions with the business model, entities and risks of harms associated with OS&D. Require retailers to have this licence to deliver or sell alcohol online.

**Recommendation 15.** Amend the Act to prescribe an effective community impact consultation and assessment process, for all retailers offering OS&D. Improve community access, information and support for engaging with licence applications. Engage with all relevant stakeholders to ensure OS&D consultation is informed by relevant expertise of alcohol harm.

**Recommendation 16.** Amend s50A of the Act and s7D of the Liquor Regulations to establish a risk rating for OS&D.

**Recommendation 17.** Amend s50A of the Act and s7D of the Liquor Regulations to incorporate a risk factor calculation of supply density, (as an equivalent for outlet density), for OS&D of alcohol in a geographic area. Consult alcohol policy experts on the development, implementation and evaluation of such a risk factor.

## **7. Delivery staff protection**

**Recommendation 18.** Amend the Act s107A (3) to better support delivery staff of alcohol companies by requiring delivery-specific Responsible Service of Alcohol (RSA) training.

**Recommendation 19.** Amend the Act s108 to clarify that selling or supplying to an intoxicated person includes delivery to an intoxicated person and is a prohibited offence.

**Recommendation 20.** Amend the Act s107A to clarify that licensees are liable for any delivery breaches. This is regardless of whether sales are on or off premise, and regardless of delivery staff are employees or subcontractors. Amend the Act s107 to prohibit retailers from imposing a penalty on employees or delivery agents for not completing a delivery, or for refusing delivery.

**Recommendation 21.** Amend the draft Bill measures that increase penalties for offences to remove those increases that apply to individuals, (other than licensees, responsible persons or persons in charge), eg. s29(1) a person who sells alcohol without a licence.



# Introduction and context

## Significant and increasing harms from alcohol

Alcohol causes significant harm to Australians, with one person dying every 90 minutes and one person being hospitalised every three minutes because of alcohol.<sup>5</sup> As well as contributing significantly to Australia's health burden, alcohol costs billions of dollars each year in Australia in terms of healthcare and non-healthcare economic costs.<sup>6</sup> Based on the findings of the Australian Burden of Disease Study 2018, overall health burden attributable to alcohol as measured by disability-adjusted life years (DALYs), was 222,108 DALYs in 2018.<sup>7</sup> Tragically, Australia has been experiencing the highest rates of alcohol-induced deaths in over 20 years.<sup>8</sup>

Nearly 400 people in South Australia die each year of an alcohol-attributable disease or injury, and nearly 6,000 South Australian hospitalisations are attributable to alcohol.<sup>9</sup> The 2022-23 National Drug Strategy Household Survey (NDSHS) found that more than one quarter (24.9 per cent) of South Australians exceeded single occasion alcohol risk guidelines at least monthly, and more than one quarter (27 per cent) exceeded lifetime risk guidelines.<sup>10</sup>

A recent *Harms to Others* study shows that alcoholic products also cause harm to the broader community. In the survey of over 2,500 adults, participants were asked about the impacts of alcohol use by people they interacted with – friends, housemates, strangers, partners, family members and colleagues.<sup>11</sup> Nearly half (48 per cent) said they had experienced harm from another person's drinking, while 7.5 per cent reported having been “*harmed substantially*”. This equates to almost 10 million adults a year harmed by others' alcohol use and more than 1.5 million experiencing serious harm.

## Lived experience of alcohol harm

At the heart of considerations about preventing alcohol harm, are people with important experiences that need to be heard.

Alex shared her story with FARE:

*“Fast service alcohol delivery contributed to the death of my close friend – he was only 43 years of age and died of alcohol-related organ failure. These delivery services enabled and worsened his alcohol use disorder. They continued to deliver alcohol to him when he would have likely been refused service through other avenues.*

*There is such a risk of non-compliance with responsible alcohol service with options for quick delivery. It seems delivery companies will keep bringing alcohol to people's doors when it might be unconscionable and harmful to do so.”<sup>12</sup>*

Sober in the Country founder and CEO, Shanna Whan AM, shared:

*“I can't begin to tell you how frequently I hear from people in my community who comment that trying to cut back or quit alcohol is made exponentially more difficult by the avalanche of alcohol advertising coming at them on social media. It's insidious, it's constant, and there's no getting away from it. When these ads are linked to rapid online delivery, bringing alcohol into people's homes in less than 30 minutes, they are even more harmful. I personally know of a case where this caused death.*

*People are seeking help for alcohol dependency and then in their face is an ad saying, 'I can bring this to your door'. For people like me who are remote and live in the middle of nowhere, our lifeline can be an internet connection. When somebody who is fragile and seeking help types 'alcohol' into a search engine because they're looking for support, it triggers the algorithm and the next minute, their news feed is full of ads for the very things they are trying to flee from. This needs to change.”*

## Alcohol and gendered violence

Alcohol is a significant contributor to gendered violence in Australia, increasing its frequency and severity. Between 2010 and 2018, over half (52 per cent) of male intimate partner homicide offenders used alcohol at high-risk levels at the time of the homicide.<sup>13</sup> Men's drinking results in direct, indirect and hidden harms to women that are cumulative, intersecting and entrench women's disempowerment.<sup>14</sup> Changes in their partners' drinking play a central role in women's journey to safety and can complicate their ability to leave.<sup>15</sup> Action on alcohol is an important part of any comprehensive approach to the prevention of violence against women and children.

### Lived experience of alcohol and gendered violence

Kym Valentine, former Chair of the Victim Survivors' Advisory Council (VSAC), shared:

*"The crackle and squeak of car tyres pulling up. Lights piercing through the front window. The sound of footsteps coming towards the door. However, innocent this description of home alcohol delivery may sound; it sends shivers down the spines of victims of domestic violence living with an alcoholic. In the 24-hour, app-enabled economies in which we now live, alcohol can flow freely into homes at any hour after a few taps on the phone, fuelling erratic and violent outbursts in already abusive homes.*

*We cannot go on in the current trajectory where alcohol companies operate in a largely unregulated advertising and home delivery market. We must ask ourselves – are elevated levels of domestic abuse an acceptable trade-off for allowing alcohol companies to aggressively promote rapid booze delivery into homes late at night? Alcohol-fuelled domestic violence is a hidden harm, yet the remedies are in clear sight. We just need strong leadership to implement them and to send the message that safe and healthy family life comes before profits. Setting basic standards for alcohol advertising and delivery will keep families safer from harm."*<sup>16</sup>

### National Cabinet and Rapid Review of Prevention Approaches

Following an initial National Cabinet meeting on gendered violence in May 2024, the Prime Minister announced an expert led 'Rapid Review of Prevention Approaches to End Gender-Based Violence'. The Rapid Review report "*Unlocking the Prevention Potential: accelerating action to end domestic, family and sexual violence*" was released in August 2024.<sup>17</sup> It included specific recommendations for governments to adopt primary objectives to prevent gendered violence and by limiting alcohol sales and delivery timeframes and advertising.

National Cabinet then met in September 2024, to again discuss gendered violence, with the Prime Minister stating that tackling the impacts of alcohol on violence was a priority. He acknowledged the role of systems and industries in exacerbating violence. State and Territory First Ministers agreed to review alcohol laws and their impact on family and domestic violence victims to identify and share best practice and reforms and to report back to National Cabinet on progress.<sup>18</sup>

The draft *Liquor Licensing (Miscellaneous) Amendment Bill 2025* (draft Bill) is the first review of alcohol laws since the September 2024 National Cabinet commitment. Measures proposed in the draft Bill address the Rapid Review recommendations and National Cabinet commitment by:

1. **Adopting gendered violence in the primary objects**, making minimising harm the paramount object of the Licensing Act and including gender-based violence in the definition of alcohol harms. This provides greater clarity of purpose and removes the conflict existing in the Act with multiple potentially competing objects. (See Section 1.)
2. **Restricting sale and delivery timeframes**, amending delivery timeframes to between 10am and 10pm and preventing rapid delivery by establishing a 2-hour safety pause between sale and delivery. This reduces the risk of alcohol-related domestic, family and sexual violence and suicide, which increase later at night, and prevents extending higher-risk alcohol use. (See Section 2.)



The Draft Bill does not address the Rapid Review recommendation to limit alcohol advertising. While there are broader, federal alcohol marketing reforms needed, state-based reforms can also be implemented by restricting practices like push notifications and buy-now buttons. (See Section 4.)

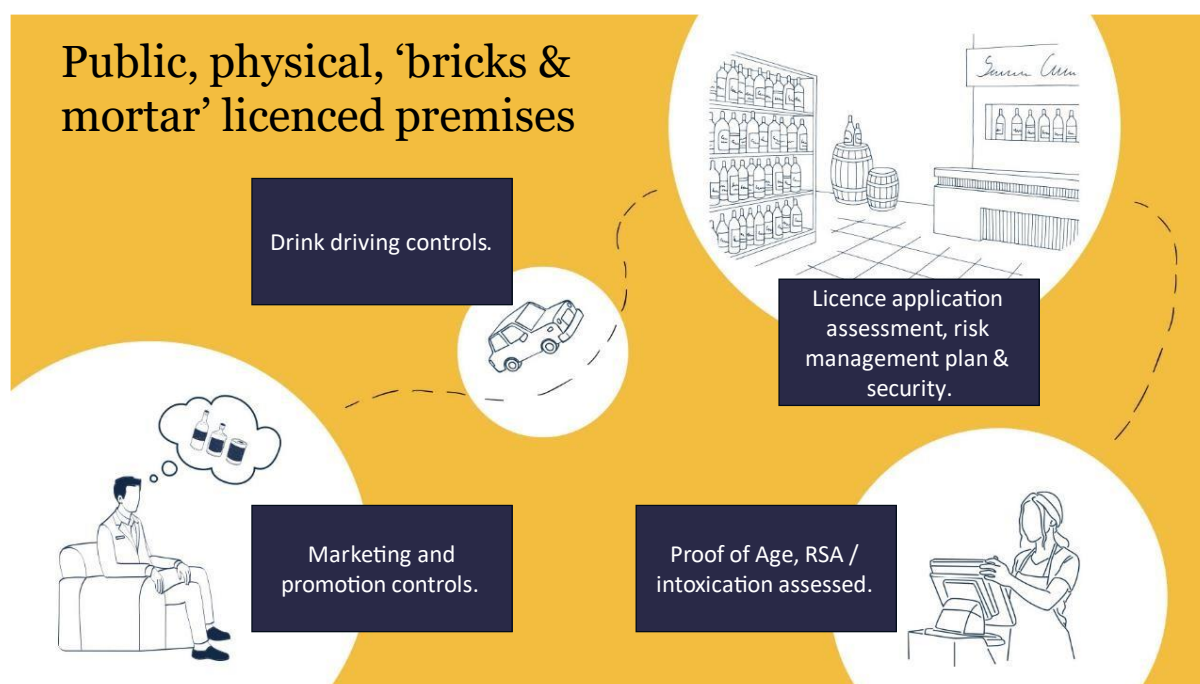
## Online sale and delivery (OS&D) of alcohol

### Rapid expansion

Every phone is now a bottleshop. The rapid shift from public, physical, licenced premises to the rapidly expanding private, digital, unlicenced online sales and delivery (OS&D) of alcohol, is a step change in alcohol accessibility. This change in alcohol availability needs a change in alcohol regulation. The rapid shift and rapid expansion are making alcoholic products more accessible, increasing the risk of harms to people in South Australia.

Online alcohol retail sales have almost quadrupled from 2012 (\$539 million) to 2022 (\$2.0 billion). The revenue from online alcohol sales is forecasted to grow at an annual rate of 10.6 per cent by 2026-27.<sup>19</sup> In 2020, one in 10 Australians who bought takeaway alcohol purchased it online – a threefold increase from 2019.<sup>20</sup> It is estimated that one in six Australians who drink alcohol, purchased it via delivery.<sup>21</sup>

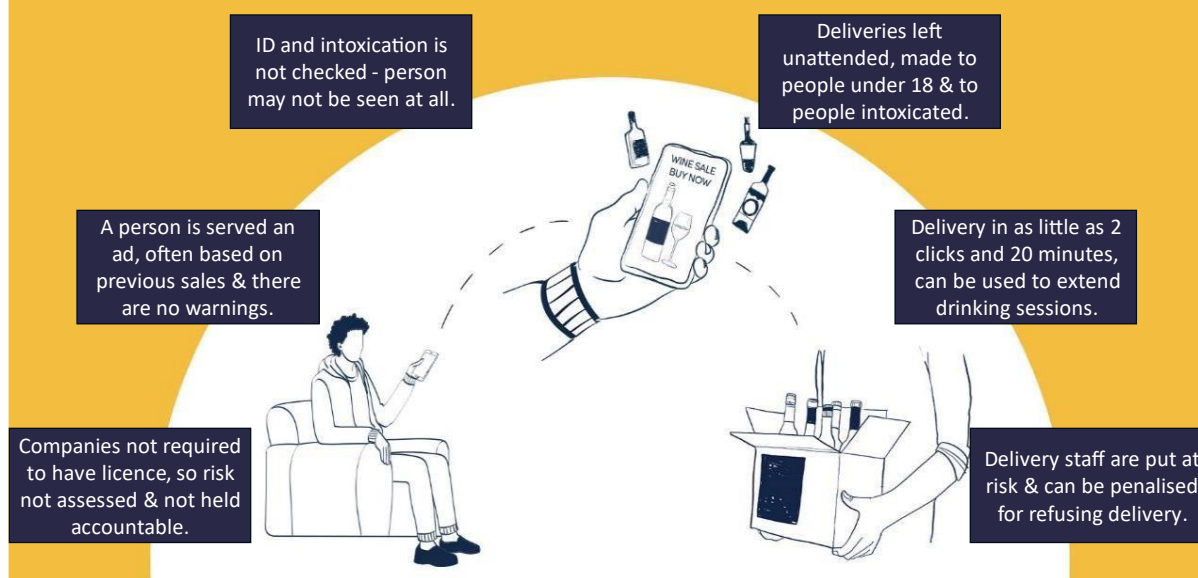
Rapidly expanding OS&D is part of move towards the digitisation of transactions. However, alcohol is no ordinary product like groceries or books. It is an addictive drug that requires controls on how it is sold and delivered so communities are protected from potential harm. Historically, regulations for the supply of alcohol in SA were designed for bricks-and-mortar stores.



Online transactions and delivery have caused significant disruption to this venue-based context. Alcohol companies can now advertise a product through multiple digital platforms, push fast purchases via Apps or websites, and then deliver alcohol within two clicks and 30 minutes in many areas. This means alcohol is more readily available and accessible than ever before.

This disrupted context with inadequate oversight means the sector is not regulated to the same standard as traditional 'bricks-and-mortar' venues, (ie. pubs, clubs, bars and bottle-shops). Research into the delivery of alcohol shows that alcohol is being left unattended, delivered to people under 18 years old,<sup>22</sup> and to people who are intoxicated.<sup>23</sup> Alcohol is also being delivered into homes rapidly, which increase the risk of harm, through the extension of an existing alcohol session.<sup>24</sup>

## Private, digital, unlicensed OS&D



### Recent OS&D evidence from Western Australia

In 2022, the West Australian Government introduced OS&D regulations that prohibited same day deliveries from being left unattended or with a person under 18 and required the person accepting the delivery to provide a valid ID. Having previously conducted two audits before and after the changes, Cancer Council WA, from July to September 2024, conducted a third audit of 49 OS&D retailers.<sup>25</sup> This had the aim of monitoring changes among OS&D retailers and to identify opportunities to reduce the role of alcohol in domestic and family violence. The audit results were as follows:

- **Rapid delivery:** 19 per cent offered rapid (< 2 hour) delivery in Perth,
- **Online ID checks:** none required online ID checks, 53 per cent required self-reporting,
- **Unattended delivery:** 29 per cent offered to leave next day deliveries unattended,
- **Delivery to intoxicated:** 31 per cent would not deliver to a person who is intoxicated,
- **Promotional practices:** 61 per cent offered a buy now, pay later option, and 22 per cent suggested additional alcohol purchases at the checkout,
- **Self-exclusion:** 76 per cent did not offer an option to self-exclude from their website.

### Regulation of OS&D

Governments need to ensure that alcohol companies comply with effective, evidence-based measures that achieve harm reduction policy objectives in this changed context. Across Australia, the regulation of OS&D has not kept pace with rapid changes in how alcohol is sold and delivered. Un-enforceable, voluntary, self-regulation codes of practice are without any real consequences and are entirely inadequate and ineffective.

The harm minimisation measures needed across the six areas are shown in the diagram below:

1. Prevent late night (after 10pm) and rapid (less than 2-hour) delivery
2. Implement (sales and delivery) ID checks and offences
3. Prevent predatory marketing
4. Enforce compliance and data collection (sales and delivery)
5. Improve licencing and risk factors
6. Protect delivery staff, (not penalise drivers, delivery-specific RSA, companies liable)

## Common sense OS&D harm minimisation measures



**1. OS&D measures already addressed.** SA began to address the rapidly evolving risks of alcohol harms from OS&D in 2018, implementing some important measures, including:

- Offence to sell alcohol online to people under 18 years old,
- Effective delivery ID checks,
- Offence to supply alcohol to people under 18 years old,
- Collect sales data
- Having no distinction between *Same Day* and *Non-Same Day* delivery.

**2. OS&D measures covered in this draft Bill.** As highlighted above in the section on gendered violence, this draft Bill addresses the OS&D Rapid Review recommendations. It restricts sale and delivery timeframes by amending delivery timeframes to between 10am and 10pm and preventing rapid delivery by establishing a 2-hour safety pause between sale and delivery.

**3. OS&D measures still needed.** Regulatory measures for OS&D should also aim to be relevant now and into the future. This is important in an area where alcohol supply has changed so significantly, and legislation has not kept pace with these changes. The SA Government needs to establish further measures to prevent and reduce the harm from the OS&D of alcohol, including:

- Effective online sales ID checks, (making the offence to sell online to under 18s enforceable).
- Offence to leave delivery unattended, (like NT, Victoria and WA).
- Collection of geographic delivery data, and test purchasing, (like NSW).
- OS&D license category and delivery-specific RSA training, (like Victoria).
- Offence to deliver to people who are intoxicated, (like NT, NSW, Victoria and WA).
- Protect deliver staff by making companies liable and not penalising drivers, (like NSW).

### South Australians support effective regulation of OS&D

A 2023 representative poll provided a snapshot of the views of South Australians on possible policy options for the online sale and delivery of alcohol.<sup>26</sup> A third (33.9%) of people believe that the SA Government is not doing enough to address harms from alcohol, with one in five (22.9%) people believing that they are doing enough and 43.3% being unsure. Most people were supportive of:

- ID being verified when placing an alcohol order (72.4%) and at the point of delivery (76.6%)
- alcohol not being delivered later than 10pm (53.3%)
- strong penalties for companies that deliver alcohol to children (89.3%) and to people who are intoxicated (62.2%).

More people (35.1%) supported a two-hour pause between when an alcohol order is made online and when the alcohol is delivered, than those who disagreed (24.4%). Neutral responses made up 40.6%, indicating a large proportion of people may be unaware of this as a policy option. In relation to policy options on alcohol marketing, most people were supportive of:

- not allowing alcohol companies to send push notifications to a person’s phone, prompting them to purchase alcohol (76.7%)
- implementing digital health warnings about the risks of alcohol on all alcohol retail websites (79.1%) and on online alcohol advertisements (78.4%)
- strong penalties for alcohol companies that advertise to people who have opted out of advertising (77.7%).

## Health strategies

The SA Government consulted on the Draft SA Alcohol and Other Drug (AOD) Strategy 2024-2030, during 2024.<sup>27</sup> The strategy is part of a group of global, national and state policies, legislation and other strategies to guide action on alcohol and other drugs, taking a harm minimisation approach. It seeks to complement existing SA Government strategies addressing the social determinants of health, for example housing and homelessness strategies and improving access and retention to education.

The draft strategy states that AOD use prevalence and harm is strongly related to the social determinants of health and socio-economic disadvantage. AOD harms are also related to the commercial determinants of health, including liquor licencing regulation. Under Priority Area 1: *Health promotion and prevention*, the draft strategy includes the following Supporting Activity: *“Examine data and evidence on the most effective alcohol and other drug regulations to promote public health and safety for the South Australian population and priority populations.”*

This draft Bill forms part of that evidence-informed alcohol regulation promoting the public health and safety of South Australians.

# 1. Gendered violence and the objects

## Primary object of harm minimisation

The current objects of the Liquor Licensing Act hold conflicting interests between harm minimisation and alcohol industry competition and profitability. These conflicting interests challenge the licensing authority’s interpretation of alcohol harm risks when deciding on matters put before it. This establishes a false equivalence between community safety and industry profits.

The draft Bill addresses this conflict by making minimising alcohol harm the *‘paramount’* object of the Act (s3). It then makes other considerations, including encouraging a competitive market, subordinate to the primary consideration of minimising harm. This resolves the untenable competing interests of harm minimisation and industry development.

Currently the objects include *“consistent with the expectations and aspirations of the public”* and the definition (s4) of *“public interest”* includes public health. The objects can be further improved by explicitly including a *‘public health’* objective, like the Licensing Act in Scotland.<sup>28</sup>

## Inclusion of gender-based violence in harms definition

As noted in the previous section, alcohol is a significant contributor to gender-based violence in Australia, increasing its frequency and severity.<sup>29</sup> The *‘Rapid Review of Prevention Approaches to End Gender-Based Violence’*<sup>30</sup> report recommended governments review and strengthen alcohol laws by adopting primary objectives to prevent gendered violence. At the September 2024 National Cabinet meeting, State and Territory First Ministers agreed to review their alcohol laws and their impact on family and domestic violence.<sup>31</sup>

The current Liquor Licensing Act includes domestic violence in the definition of alcohol harms, but not gendered violence. The draft Bill includes gendered violence in the primary objects by adding ‘*gender-based violence*’ to the definition of alcohol harm (s3). Together, these two amendments to the objects of the Act address the ‘*Rapid Review*’ report recommendations that governments review and strengthen alcohol laws by adopting primary objectives to prevent gendered violence.

**Recommendation 1.** FARE supports prioritising harm minimisation in the Act, by making it the paramount object of the Act and including gender-based violence in the definition of alcohol harms.

## 2. Late night and rapid delivery

The expert led ‘*Rapid Review*’ report recommended governments review and strengthen alcohol laws by limiting alcohol sales and delivery timeframes.

### Limit late night delivery

The risk of alcohol harm increases later at night. Evidence shows that alcohol-related family violence and suicides peak late at night in the home:

- Alcohol-related assaults increase substantially between 6pm and 3am, with 37 per cent of these assaults occurring in the home and 57 per cent of those being family violence.<sup>32</sup>
- Suicides and sudden or unnatural deaths involving alcohol predominantly happen at night, in the home environment.<sup>33</sup>

Late night delivery is already restricted in SA to 10pm. The proposed amendments to the relevant licence conditions in the draft Bill (sections 18, 19, 21 and 22), change the starting time for delivery from 8am to 10am, (yet leave premises takeaway trading hours at 8am to 10pm). The Act, however, also allows licence holders to extend their delivery hours outside of 10am to 10pm by application (s70), and on special days. This needs further amendment to s70 to specify that alcohol delivery hours may not be extended beyond 10am to 10pm.

**Recommendation 2.** FARE supports the amendment to delivery start times from 8am to 10am in the relevant licence conditions. The Act s70 also needs amending to specify that delivery hours may not be extended beyond 10am to 10pm and to align trading hours for the sale of takeaway alcohol with the new delivery trading hours, ie. between 10am and 10pm.

### Prevent rapid delivery

Rapid alcohol delivery fuels higher risk alcohol use and contributes to people ‘topping up’ when they normally would have stopped drinking, this increases the likelihood of higher-risk alcohol use.

Evidence demonstrates that rapid delivery enables impulsive purchases and enables continuation of an existing alcohol session when the alcohol supply has been exhausted:

- A UNSW study published in 2023 found that one in five Australian adults who use popular alcohol delivery sites used a service to continue a home drinking session.<sup>34</sup>
- FARE’s 2020 Alcohol Poll found of people ordering rapid delivery, 38 per cent drank more than 10 standard drinks on that occasion.<sup>35</sup>
- A VicHealth survey found 77 per cent of people who ordered rapid delivery would have stopped if it was unavailable.<sup>36</sup>

Currently, in the Act, there are no specific requirements for a pause between sale and delivery. Rapid delivery means alcohol that is delivered within 2 hours of ordering; however, orders are often fulfilled even more quickly within 30 minutes. The draft Bill proposes that at least 2 hours passes between the time the order is placed for the alcohol and the time that it is delivered, for the relevant licences, (s18, s19, s21 and s22).



**Recommendation 3.** FARE supports the amendment to the relevant licence conditions to introduce a 2-hour safety pause between the order and delivery of alcohol to prevent higher-risk rapid delivery.

### Scope is *all* OS&D of alcohol

Currently, the Act makes no distinction between same day and non-same day deliveries. This reflects the evidence that, except for rapid (less than 2 hour) delivery, the risks of alcohol harms are the same regardless of the delivery timeframe, that is, delivery to people who are intoxicated, delivery to children and deliveries left unattended.

The draft Bill should retain the scope of all types of alcohol delivery (same day and non-same day), given that the risk of unattended, late night, intoxicated and underage delivery is the same for non-same day delivery. The “*Review of the NSW Alcohol Delivery Reforms – Stage 1*” findings noted evidence of non-same day delivery to people under 18.<sup>37</sup>

**Recommendation 4.** FARE supports the scope of OS&D measures applying to all OS&D of alcohol, by retaining no distinction between same day and non-same day delivery.

## 3. ID checks and offences

Every phone in every home is now a bottle shop. In a bricks-and-mortar liquor outlet, the point of sale and the point of supply are combined in one transaction, with public and physical oversight. With online sales and delivery into homes these two points are separated, often undertaken by different companies, and mostly done in private. This creates two points at which there is an increased risk of a person under 18-years-old having access to alcohol.

### Effective ID check on delivery

Delivery of alcoholic products without age verification creates a risk that alcoholic products will be left unattended or accessed by a child. There is recent evidence that this continues to occur:

- A 2022 study found that 22 per cent of people had their delivery left unattended at the door, and 50 per cent did not have to show ID to prove they were over 18.<sup>38</sup>
- Another 2022 study, using research assistants who were over 18 years but appeared to look younger, found 24 per cent of alcohol orders were delivered without an ID check.<sup>39</sup>
- The findings of the 2022 NSW “*Review of the Alcohol Delivery Reforms - Stage 1*” indicated that 1 in 10 drivers were unaware of age and ID checks, and 7 out of 25 covert compliance checks failed to verify point of delivery ID.<sup>40</sup>

If the person purchasing alcohol is not at home to receive the delivery, there are options other than leaving it unattended. Alternative delivery arrangements, such as collection at a post office or other delivery collection points are used by several delivery companies that ship less dangerous products (such as event tickets and mobile phones) and should apply to the delivery of alcoholic products.

The Liquor Regulations currently requires effective ID checks for delivery. Regulations s15A and s18 specify requirement for evidence of identity and age to be produced and recorded. Age verification documents include driver's licence, passport, AusPost Keypass identification document.

**Recommendation 5.** FARE supports retaining the current requirements in the Liquor Regulations for effective ID checks on delivery of alcohol.

### Prohibited offences

The rapidly expanding OS&D of alcohol create new risks of harms through the sale and delivery of alcohol to people under 18 years old, and to people who are intoxicated. To ensure retailers and delivery companies comply with requirements not to sell or deliver to people under 18 years old,



appropriate offences need to be prescribed. These include an offence to *sell* to people under 18, an offence to *deliver* to people under 18, and an offence to leave an alcohol delivery unattended.

Currently in SA, s110A creates an offence to ‘supply’ liquor to a person under 18 years old, (including through ‘direct sales’). This needs to be clarified that the offence of *selling or supplying* alcohol to a person under 18 ‘*otherwise than on licensed premises*’, specifically includes selling alcohol *online* to a person under 18. However, as noted above, without a requirement for effective sales ID checks this offence is unenforceable.

Similarly, the offence to ‘supply’ liquor to a person under 18 years old, (including by ‘direct sales’), needs to be clarified to state that the offence specifically includes *delivering* alcohol to a person under 18. The requirement in the Act for delivery to require ID checks helps prevent leaving alcohol unattended. However, there is no specific offence for leaving alcohol unattended.

**Recommendation 6.** FARE supports retaining the offence for the selling or supplying of alcohol to people under 18 years old. The Act s107A also needs amending to clarify that selling or supplying includes selling online and delivery to people under 18 under old and to establish a specific offence for leaving an alcohol delivery unattended.

## Effective ID checks at point of sale

Currently in SA, there is no effective online sales age verification prescribed. This is despite having an offence to ‘supply’ liquor to a person under 18 years old, including through direct sales. This omission makes the offence unenforceable. The Act simply requires people to ‘*notify the licensee of the purchaser’s date of birth*’ (s107A), which is easily circumvented. Companies that deliver alcoholic products do not effectively verify age at point of sale, putting children at greater risk. The draft Bill makes no amendment to introduce effective age verification prescribed for sales.

In December 2024, the Australian Government established a national Digital ID System, which accredits digital ID providers. From December 2024, state and territory government services have been able to apply to join the Digital ID System. By December 2026, private sector entities will be able to apply to the Digital ID Regulator to participate in the Digital ID System. In the meantime, there are many established digital ID providers available to implement effective online sales ID checks, eg. Australia Post Keypass ID.

**Recommendation 7.** Amend the Act s107A to require effective digital proof of age, (collecting ID data safely), eg. Australia Post Keypass ID, as an effective ID check for online sales.

## Human rights and harms to children

New research published in 2024 shows one in six children (17 per cent) have experienced harm from the alcohol use of adults around them, with two-thirds of harm being attributed to an adult in their home.<sup>41</sup> The research found that various harms were reported, as disclosed by their caregiver, including verbal abuse (6.2 per cent), financial harm (4.3 per cent), children witnessing serious violence in the home (2.0 per cent), children left unsupervised (2.3 per cent) and physical harm (1.0 per cent). The research also found that women were more than twice as likely as men to indicate that a child had been affected. Children were also seven times more likely to be harmed when the caregiver also reported that they had been harmed, compared to where children whose caregivers did not report such harm.

It is critical that the draft Bill prioritise a health and human rights approach to the prevention of alcohol harms. A Queensland Government Committee has asserted that the Queensland Human Rights Act requires public policy to address alcohol harm. The requirement is based on the increased risk of harm from ‘*easy access to alcohol*’, (which includes online sales and delivery):

*“The use of alcohol and other drugs accompanies around half of all family and domestic violence incidents. Legislative measures which increase accessibility to alcohol, and especially*

*alcohol usage in private homes, may therefore limit the rights of children and families and the right to security and liberty of the person. HRA section 26 emphasises the importance of the family, imposes an obligation on the State to protect the interests of children. Easy access to alcohol threatens not only children and families of alcohol consumers, but also the mental and physical health and security of consumers themselves.”<sup>42</sup>*

This means the Queensland Government has an obligation to protect the rights of children when considering legislative changes in relation to alcohol availability. Currently the SA Liquor Act allows activities that place children at risk such as permitting people between 16 and 18 years of age to sell alcohol (s107). It also applies adult penalties to people under 18 years old, who consume or possess alcohol (s110, s110A), or who enters restricted areas of licenced premises (s111). These penalties breach the human rights responsibilities above and need to be replaced with alternate responses.

**Recommendation 8.** Amend the Act s107 to remove the exception in (2)(a) and (b) that permits people under 18 years old to sell alcohol. Amend the offences and penalties in s110 and s110A for people under 18 years old and replace them with confiscation and education responses.

## 4. Predatory marketing

Everyone should be able to enjoy the benefits of safely using digital technologies to work, learn, purchase and play. This can happen when we have safe digital environments that enable people’s health and wellbeing. However, the extensive collection, use and disclosure of people’s personal information is being used to fuel aggressive marketing practices that are harming the community, including the digital marketing of alcohol.<sup>43</sup>

The more people order alcohol, the more they are targeted with advertising online. There is evidence that alcohol companies are uploading data about young people to feed the Meta marketing algorithm.<sup>44</sup> The data-driven marketing model is *harmful by design* as the whole community are targeted. People with high levels of alcohol use are likely to be targeted the most, (this would include people trying to reduce their alcohol use or in recent recovery). There is also evidence that young people are targeted with this advertising.<sup>45</sup>

### Prevent predatory digital marketing

The expert led ‘*Rapid Review of Prevention Approaches to End Gender-Based Violence*’ report recommended governments review and strengthen alcohol laws, including by limiting alcohol advertising. While there are broader, federal alcohol marketing reforms needed, there are also state-based reforms that can be implemented by restricting predatory marketing like push notifications and buy now buttons.

An analysis of more than 50,000 alcohol advertisements from alcohol retailers on the Meta platforms (eg. Facebook and Instagram), over a period between 2021 and 2023, found that 84 per cent of advertisements had a call-to-action button. Almost half (47 per cent) of the advertisements by alcohol retailers on the Meta platforms with a call-to-action button directly linked to alcohol retail.<sup>46</sup> This means that the purchase of alcohol began within one click from the advertisement.

Retailers must be prohibited from offering or promoting delayed payment to purchase alcohol online or offering incentives for a minimum spend or volume. *Buy Now Pay Later* delayed payment schemes enable predatory targeting, including of people on low incomes, and people experiencing alcohol dependency. They also facilitate rapid and bulk purchases of alcoholic products. Delivery companies frequently use these promotions to entice customers.

The object of the Act is ‘to regulate and control the *promotion*, sale, supply and consumption of liquor’, yet there are no requirements around promotion in the Act or Regulation, only in the General Code of Practice Guidelines. Practice Guidelines Clause 9 deals with how the licensee conducts, promotes, and advertises their business. It lists ‘*Unacceptable practices that may be*

deemed to be promoting, advertising or operating the licensed business in a way that encourages the irresponsible, rapid or excessive consumption of liquor'. However, these measures do not address digital marketing, and there are no prohibited promotional practices relating specifically to OS&D.

The draft Bill also has no new measures to prevent predatory marketing. Each of the unacceptable practices in the Practice Guidelines needs to be made specifically applicable to the digital marketing and the promotion of OS&D. This should include prohibiting specific practices such as sending direct prompts, 'buy-now' buttons, or notifications promoting alcohol to a person's personal device.

**Recommendation 9.** Amend the Act, adding new clauses to specifically ban unacceptable marketing practices, including those listed in General Code of Practice Clause 9, with appropriate penalties. Extend the list of unacceptable promotional practices to the digital marketing of OS&D, including prohibiting retailers from offering delayed payment; sending direct prompts; 'buy-now' buttons or offering incentives for a minimum spend or volume.

## Online health warnings

Australians have low awareness of the National Health and Medical Research Council's (NHMRC) Australian guidelines to reduce health risks from drinking alcohol.<sup>47</sup> A recent, nationally representative poll found that most Australians surveyed (61 per cent) report not being familiar with the content of the NHMRC Alcohol Guidelines.<sup>48</sup>

The Liquor Licensing Act requires licensees to display certain notices at licenced premises including displaying a sign stating, "*It's against the law to sell or supply alcohol to people under 18.*" (s113). However, there are no requirements for licensees to display information about the NHMRC Australian Alcohol Guidelines, and no requirements for online sales websites to display any health-related information. The only current requirement regarding online advertising, is the requirement to include the licence number on the retailer's website (s107A).

Whilst warnings about the offence of supplying alcohol to people under 18 are necessary, they are not sufficient education to prevent alcohol harm for people accessing online advertising. Online alcohol companies should also be required to display evidence-based health warnings with reference to the NHMRC Australian Alcohol Guidelines. These warnings could cover the range of harms that alcohol causes including liver disease and cancer.

**Recommendation 10.** Amend the Act s107A to require retailers with online advertising targeting SA, to include on their websites at least three prescribed rotating health warning statements about the risk of harm from alcohol, with a link to the *Australian guidelines to reduce health risks from drinking alcohol*.

## 5. Compliance and data

Regulatory measures are only as effective as their corresponding compliance measures. In addition to legislating specific regulatory offences and penalties (see Section 3 above), there are other effective compliance monitoring measures that can be adapted for OS&D. These include improved (sales and delivery) data collection and reporting requirements, implementing test purchasing for OS&D, and designing, prescribing and monitoring delivery-specific RSA training (see Section 7 below). Each of these compliance provisions give effect to the enforcement of the regulatory measures. This is the key benefit of government legislation and regulation, that it is enforceable, unlike ineffective industry self-regulation with no real consequences.

### Collect, report and publish sales and delivery data

Accessible data and research evidence is needed to be able to establish, maintain and enforce effective alcohol laws. This allows better understanding of alcohol harms and improves liquor licencing decision-making. Most of this data comes from alcohol companies, much of which is

already collected while doing business, or reporting to their industry lobby groups. The OS&D industry lobby group, Retail Drinks Australia, indicated they had access to sales data from nearly 9 million transactions, (while also advocating against governments requiring sales data collection).<sup>49</sup>

Currently in the Act retailers are required to keep records of all transactions involving the sale or purchase of liquor (s109A). It does not specify whether transaction records need to include alcohol types, quantities, or geographic locations. There is no requirement for the SA Government to publish this collected data. There is also no requirement in the Act to collect, report or publish data on delivery issues such as refusals.

This data, (along with test purchasing), is necessary for monitoring the compliance of refusals (under 18, unattended or intoxicated). It is also needed to facilitate a more accurate calculation of the increase in alcohol supply density due to online delivery, (see Section 6 below). SA Government also needs to publish frequent reports on monitoring and enforcement activity.

**Recommendation 11.** Amend the Act s109A to require retailers to report the volume of alcohol sold online and delivered by geographic area. Publish regular sales and delivery data reports to enable research and compliance monitoring of sales.

**Recommendation 12.** Require retailers to keep records on deliveries refused because recipient was under 18, did not provide evidence of age or was intoxicated. Publish regular reports on compliance and enforcement to enable research and monitoring of deliveries and frequency of issues.

## Test purchasing

To be effective, regulatory requirements must be backed by effective compliance measures, including directly monitoring online sales and delivery. This will enable authorities to enforce the measures that are in place to keep communities healthy and safe, such as not delivering alcoholic products to children under 18 years of age.

Test purchasing, or controlled purchase operations (CPOs), can include a young person (who is, or appears to be, under 18 years old), under the supervision of an authorised person, purchasing, or trying to purchase, liquor from a licensee. This is done to obtain evidence that may lead to the prosecution of a person for the offence of supplying liquor to child or young person. Several jurisdictions already do test purchasing to monitor licence compliance, but only NSW uses it for alcohol delivery.<sup>50</sup> OS&D research has also used test purchasing in WA.<sup>51</sup> There is no reference to test purchasing in the Act or Regulations, and no proposal in the draft Bill either.

**Recommendation 13.** Amend the Act and Regulations to prescribe test purchasing operations to ensure compliance with the OS&D requirements (such as not supplying alcohol to children under 18 years of age), for both sales and delivery.

## 6. Licensing and risk factors

### Establish a licence category for OS&D

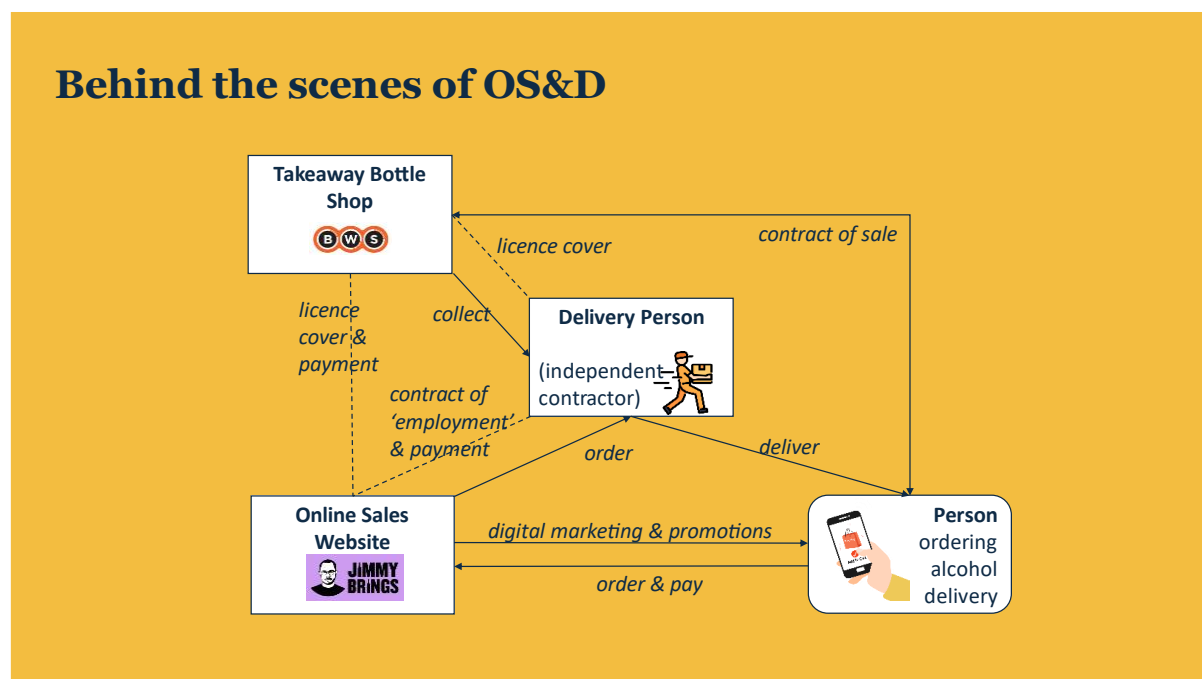
Currently, there is no licence category in the Liquor Licensing Act directly governing OS&D of alcohol (although there was previously a 'direct sales' licence). The Act clause 107A '*Sale of liquor through direct sales transaction*' has some specific OS&D licence conditions. However, these licence conditions must be attached to venue-based licences, specifically General and Hotel (which the draft Bill splits into separate licences), Club, and Packaged liquor sales licences.

This means that an SA delivery company does not need an SA liquor licence, allowing delivery companies to continue to operate under a separate company's licence (eg. MilkRun operating under a local bottle shop 'Packaged liquor sales' licence). As a result of this '*arm's length*' regulatory oversight, the SA Government will not have a clear picture of how many delivery companies are

operating in the market. It also limits the ability of the SA Government to monitor their compliance, as there are less avenues for penalising breaches, such as loss of a licence.

Stretching existing licence conditions over fundamentally different business models will require multiple exclusions and exemptions. These include simple examples such as the requirement that a 'A licensee must ensure that an up-to-date copy of the plan of the licensed premises is kept at the licensed premises and made available on request to a police officer or inspector'. These conditions then must be applied to separate business entities to the licensee. There can be up to three different commercial entities involved in OS&D of alcohol in the SA (see diagram below). These include the online sales company, the licenced takeaway bottle shop that the alcohol is collected from, and the delivery driver, (often an independent contractor).

The purpose of different licence categories is to reflect different business types, and align administration processes, compliance and licensing fees with these different business types, and with the different risks of alcohol harm for each. The most effective regulatory instruments are those that can directly monitor and enforce compliance with the most relevant entities involved. Any commercial entity selling or delivering alcohol should hold a liquor licence themselves. Without this process, the SA Government has limited oversight of delivery companies and less compliance enforcement options.



An integral part of this new licence category application process would be for it to trigger community consultation, as people in a local area where alcohol delivery is being expanded into, should be consulted. Without a specific OS&D licence category, there is no process that triggers public consultation for OS&D. (See next section below on public participation.)

The Victorian Commission for Gambling and Liquor Regulation has developed such a licencing model for OS&D of alcohol, by establishing the licence category of 'Remote Seller'.<sup>52</sup> This licence category applies to entities supplying alcohol to people not currently on the licenced premise, (including sales over the phone, via the internet or through an app), and delivered to customers to use off-premises. It has its own application processes and risk-based licence fees.

**Recommendation 14.** Amend the Act Division 2 subdivision 2 'Ongoing licences' to establish a separate, specific liquor licence for OS&D, to align the administration, licence fees and conditions with the business model, entities and risks of harms associated with OS&D. Require retailers to have this licence to deliver or sell alcohol online.



## Genuine transparency and public participation

Community participation in licensing is a function of democratic governance, procedural fairness, and supports stakeholders' rights to object or lodge complaints. Liquor licence applications are the opportunity for the community to be involved in the decision-making process about the potential impact of increased access and supply of alcohol.

The SA Government states that it supports accountable, responsible and inclusive governance, promoting transparency and empowerment to citizens to strengthen governance. It is committed to being open and accountable, engaging with the community, and public participation in the making of decisions, policies, and laws.<sup>53</sup> This should mean that liquor licensing prioritises the voice of the community in its decision-making processes.

The Liquor Licensing Act requires that the licencing authority must determine if a licence application is in the community interest, (in line with community impact / interest assessment guidelines). However, the Act has no specific licence category for OS&D, nor any specific community consultation requirements for OS&D. There must be an equivalent process for the community to be heard, and for impact to be assessed, for OS&D of alcohol in the relevant geographic area where it will be available. The draft Bill introduces a change in terminology from *Community Impact Assessment* (CIA) to '*Community Interest Assessment*'. However, it does not specify any change to the CIA guidelines, (which need updating to reflect the new paramount object of harm minimisation). It is still at the discretion of the licensing authority to designate an application as requiring a CIA.

Genuine engagement should be pro-active and include elements from across the '*Public Participation Spectrum*', (inform, consult, involve, collaborate and empower).<sup>54</sup> For liquor licensing, this means engagement with community stakeholders must include early, informed, transparent, and equitable participation in decision-making. For communities to effectively engage in licensing, they need to be appropriately informed and supported, and processes need to be transparent.

The current process already has a power imbalance that favours business interests over community. Companies have access to finances and resources to gain legal and other social planning advice and can run protracted appeals and defences. Impacted and concerned communities do not. Some community participants indicate that professional engagement processes feel intimidating or inaccessible when dominated by legal professionals.<sup>55</sup>

Independent support should be resourced and made available for communities who wish to engage in licensing processes. An advisory information service is needed, with staff that have expertise in licensing systems and an understanding of community needs and expectations. This would support individuals and communities in navigating and interacting with the liquor licensing system. A pilot of such a service operated in NSW as the Alcohol Community Action project (ACAP).<sup>56</sup> ACAP successfully assisted numerous communities to lodge objections to liquor licence applications and provided advice to individuals who were not aware of their rights when dealing with applications.

**Recommendation 15.** Amend the Act to prescribe an effective community impact consultation and assessment process, for all retailers offering OS&D. Improve community access, information and support for engaging with licence applications. Engage with all relevant stakeholders to ensure OS&D consultation is informed by relevant expertise of alcohol harm.

## Develop OS&D risk ratings including supply density

Alcohol harms are identified and responded to, based on a scientific calculation of the risk of harms. Likewise, risk-based licensing (RBL) aligns licensing fees and conditions with evidence of the risks of alcohol harm. RBL means that licensing fees are calculated using evidence-based risk factors, (trading hours, patron capacity, density and proximity, and compliance history).

The rapid growth of OS&D of alcohol introduces new risks of alcohol harm, including increased availability, accessibility, density of alcohol supply, and rapid and unsupervised delivery. In SA,



licence fees are calculated based on licence type, trading hours and occupancy capacity. There is no reference in the Act or the draft Bill to risk ratings for OS&D.

There is substantial evidence showing that liquor outlet density is a key risk factor of alcohol harm:

- A *NSW Bureau of Crime Statistics and Research (BOCSAR)* study found a higher concentration of hotel licences strongly predicted intimate and non-intimate partner violence.<sup>57</sup>
- The *World Health Organisation (WHO)* has highlighted that neighbourhoods which have higher densities of alcohol outlets also have greater child maltreatment problems.<sup>58</sup>

There are no requirements for calculating a risk rating for outlet or supply density in the Act, Regulations or the draft Bill. An equivalent for outlet density in each geographic area needs to be developed for OS&D of alcohol and included in the calculation of risk factors in RBL. A cumulative impact assessment framework can help manage the density of licensed premises and OS&D of alcohol to ensure alcohol harms to the community are minimised. However, further development of specific data sources (see Section 5 above), will be necessary, requiring input from alcohol policy experts to determine the most appropriate way to incorporate OS&D into the assessment.

**Recommendation 16.** Amend s50A of the Act and s7D of the Liquor Regulations to establish a risk rating for OS&D.

**Recommendation 17.** Amend s50A of the Act and s7D of the Liquor Regulations to incorporate a risk factor calculation of supply density, (as an equivalent for outlet density), for OS&D of alcohol in a geographic area. Consult alcohol policy experts on the development, implementation and evaluation of such a risk factor.

## 7. Delivery staff protection

As discussed in the Introduction, OS&D represents a significant shift from public, physical, licenced premises to a private, digital, unlicenced context. This shift creates unique risks for delivery staff. Delivery employees are not inside a venue, like bottle shop staff, but alone on a person's private property without other colleagues or security staff.

### Delivery-specific responsible service of alcohol (RSA) training

Responsible service of alcohol (RSA) training is only one element in preventing alcohol supply to children or people who are intoxicated. Despite the emphasis placed on mandatory RSA training across Australia, there is little evidence that training alone reduces the likelihood of sale of alcohol to people who are intoxicated.<sup>59</sup> It only has some effect when combined with strong regulation, compliance testing, penalties and strict enforcement. Current RSA training is designed for alcohol supply within premises, and much of it is not appropriate for the delivery of alcohol.

Delivery-specific RSA needs to be designed, prescribed and monitored with record-keeping of refusals and test purchasing. The findings of the *“Review of the NSW Alcohol Delivery Reforms - Stage 1”* indicated drivers asked for more plain English, and more support with de-escalation and communication.<sup>60</sup> Delivery staff need to be supported so that they understand their role, rights and responsibilities including with refusing delivery of alcohol.

Currently in the Act there are no specific requirements for delivery staff, or for RSA training specific to the delivery of alcohol in a fundamentally different context to alcohol supply at premises. The General Code of Practice Guidelines requires generic RSA training, not specific to the unique OS&D context and s107A only requires licensee to ‘provide instructions’ to delivery person.

**Recommendation 18.** Amend the Act s107A (3) to better support delivery staff of alcohol companies by requiring delivery-specific Responsible Service of Alcohol (RSA) training.

## Offence to deliver to people who are intoxicated

The OS&D of alcohol creates new risks of harms, including to delivery staff, through the delivery of alcohol to people who may be intoxicated.

- A 2022 study found that a quarter of respondents had alcohol delivered while intoxicated, 75 per cent of whom were never or only sometimes refused delivery.<sup>61</sup>
- Sixty-one per cent of Victorians using rapid delivery weekly said they were regularly intoxicated when receiving their alcohol delivery (and were still given the order).<sup>62</sup>

A key protection for delivery staff is to support them with the right to refuse delivery, without penalty, to a person who is intoxicated. The Act specifies an offence to ‘sell or supply’ to people who are intoxicated or people under 18, however this is prescribed for licenced premises (s108), not delivery.

**Recommendation 19.** Amend the Act s108 to clarify that selling or supplying to an intoxicated person includes delivery to an intoxicated person and is a prohibited offence.

## Not penalise staff and ensure companies are liable

With the shift to a private, digital, unlicenced contexts delivery staff must be supported and legally protected from being penalised for delivery refusal with companies being held liable for breaches. The findings of the NSW “*Review of the Alcohol Delivery Reforms - Stage 1*” indicated that 10 per cent delivery drivers felt unprotected from being penalised, with nearly 1 in 10 who refused a delivery, having been penalised by their employer.<sup>63</sup>

The Liquor Licensing Act specifies that delivery is taken to constitute supply (s107A), and that each person occupying a position of authority in the trust or corporate entity of the licensee is guilty of an offence by the licensee. However, this is limited to *licenced premises* (s108). There is no specific prohibition on retailers in the Act or proposed in the draft Bill from imposing a penalty on employees or delivery agents for not completing a delivery or refusing delivery.

The draft Bill also proposes some other changes to offences in the Act that can impact on alcohol companies and individuals. The establishment of offences to ensure that retailers comply with ‘voluntary barring orders’, (ie. self-exclusion), may help support people to reduce their alcohol use, provided these measures remain voluntary.

The draft Bill also increases most penalties by 50 per cent (except the s29(1), which increases by 150 per cent). These increased penalties for companies can help ensure compliance. However, there is also potential for discrimination and criminalisation of individuals through the enforcement of offences and penalties that must be avoided.

**Recommendation 20.** Amend the Act s107A (4) to clarify that licensees are liable for any delivery breaches. This is regardless of whether sales are on or off premise, and regardless of delivery staff are employees or subcontractors. Amend the Act s107 (4) to prohibit retailers from imposing a penalty on employees or delivery agents for not completing a delivery, or for refusing delivery.

**Recommendation 21.** Amend the draft Bill measures that increase penalties for offences to remove those increases that apply to individuals, (other than licensees, responsible persons or persons in charge), eg. s29(1) a person who sells alcohol without a licence.

## Conclusion

FARE’s submission in response to the draft “*Liquor Licensing (Miscellaneous) Amendment Bill 2025*”, highlights the evidence-based measures in the Bill which can reduce the risk of alcohol-related gendered violence and the risk of harms from online sale and delivery (OS&D) of alcohol.

We commend the SA Government for being the first jurisdiction to implement recommendations from the Rapid Review and the National Cabinet commitment. These include specifying gendered violence as part of making harm minimisation the paramount object of the Act and by restricting sale and delivery timeframes. These changes prioritise the health and wellbeing of the community by enabling protections that prevent harms from alcohol.

FARE also supports retaining other OS&D measures in the current Act, including offences to supply to people under 18, delivery ID checks, collecting sales data, and having no distinction between same day and non-same day.

This submission also provides recommendations on how the SA Government can make further changes to the Liquor Licensing Act, to effectively address the increased risk of harms from the rapid expansion of OS&D of alcohol. The additional measures needed include online sales ID checks, unattended and intoxicated delivery offences, delivery data collection, test purchasing, OS&D license, delivery-specific RSA, making companies liable and not penalising drivers.

FARE's recommendations outline the steps that the SA Government can take to implement an evidence-based approach to OS&D of alcohol, ensuring that it aligns with harm minimisation, prevents gendered violence and meets community expectations. This will allow the SA Government to prioritise the wellbeing of SA communities.

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