



*Greetings, Kia ora, Talofa lava, Kia orana, Malo e lelei, Fakaalofa lahi atu,
Taloha ni, Ni sa bula vinaka, Ni Hao*

Are you concerned about alcohol related harm in your community?

**If so, have your say and make a submission on the
Sale and Supply of Liquor and Liquor Enforcement
Bill.**

A Tool kit on the Sale and Supply of Liquor and Liquor Enforcement Bill 2008.

This toolkit includes a summary and commentary on the Bill to support your written and oral submissions.

Written submissions are due by **Thursday 23 April 2009** to Parliament's Justice and Electoral Select Committee.

You can:

1. Download details of the Bill (Digest No 1662) from <http://www.parliament.nz/en-NZ/PB/Legislation/Bills/>
2. Use this tool kit to guide you in making a submission.
3. Lift awareness of the issues with colleagues, health professionals, educational and community groups about this opportunity and the issues.
4. Work with others to make submissions
5. Talk with your local MP
6. Keep in contact with us and join our email list for up-dates

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Reducing alcohol-related harm Te whakaiti i ngā pānga kino o te waipiro

Kia ora, Greetings Colleagues and Community Stakeholders

Community concern over alcohol issues has been mounting. This is evidenced by growing numbers of communities challenging liquor licence applications in their neighbourhoods, daily reports of horrific road crashes, domestic and other violence, demise of sport stars to name but a few.

It is also evidenced by the community push resulting in three recent reviews into alcohol matters and the initiation of the broadest ranging review in 20 years headed by the Law Commission.

The problems associated with alcohol consumption are not going away. If anything we are facing increasing levels of harm in light of increasing per capita consumption trends. A recently released report estimated harm costs of alcohol at nearly \$4.8 billion a year. We know that this burden is carried more heavily by the young, Maori and Pacific peoples.

We encourage you to get involved and have your say on the Sale and Supply of Liquor and Liquor Enforcement Bill. Even if the Bill makes no further progress the Law Commission process will consider submissions made on it. Therefore it is important that they hear your desire for change.

Your submission may include comments on any or all aspects of the Bill and we further encourage you to consider what is NOT covered in the Bill.

Issues such as price and discounting, adult Blood Alcohol Concentration (BAC) for driving, meaningful measures to reduce exposure to alcohol marketing, warning/advisory statements, minimum legal purchase age are some areas not covered by the Bill.

It is important that a comprehensive range of policies and strategies are adopted if we are to make real and measurable reductions in alcohol-related harm.

We call on you for your support and trust you will let us know if we can support you in any way to be heard.

Kindest regards
Mauri ora
Rebecca Williams
Director and the Alcohol Healthwatch Team.

Summary of the Bill

The Sale and Supply of Liquor and Liquor Enforcement Bill passed its first reading in Parliament on 10th March 2009. The Bill was developed in response to recommendations arising from three separate reviews:

- Review of the Sale and Supply to Minors
- Review of the Regulation of Alcohol Advertising and the
- Targeted review of Sale and Supply of Liquor Enforcement Issues

In this context, the policy objectives of the omnibus Bill are to:

- support a more moderate drinking environment and culture to reduce the normalisation of youth drinking
- enhance the responsibility of friends and adults who supply alcohol to minors
- increase youth responsibility and accountability
- improve compliance and responsibility of industry
- increase community input into licensing decisions
- clarify the types of premises that may hold off-licenses

Each part of the Bill relates to proposed changes to three current Acts.

- **Part One** covers changes to the Sale of Liquor Act 1989
- **Part Two** covers changes to the Summary Offences Act 1981
- **Part Three** covers changes to the Land Transport Act 1998

These three Acts will be voted on separately once the Bill returns to the House for final reading and voting on by MP's: and this is still a conscience vote for each of the three amendments; so each MP's votes will count.

***Please note** the following does not include every detail of the Bill and does not always use exact terminology.

Part One: Key Amendments to the Sale of Liquor Act 1989

| Proposed Changes | Comment |
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| <p>Local Alcohol Plans (LAP) New Part 4A and new section 84A Empowers Territorial Authorities (TA) to adopt, amend or revoke a LAP relating to the sale or consumption of liquor in its district or any part or parts of district. TA must use Special Consultative Procedure as provided for in Local Government Act 2002.</p> <p>New section 84B States what may be included in LAP:</p> <ul style="list-style-type: none"> • Hours during which liquor can be sold • Outlet location • A maximum density for outlets • Minimum distance from community premises • Responsible business practice and event management • Information to be submitted in licence applications • Submission of Social Impact Reports (SIRs), matters to be included in SIRs and who reports are prepared by • Condition that are or may be imposed on licences • Criteria to be used in assessing licence applications • A policy on how any criteria or conditions are to be applied. <p>Any policy may include a statement of circumstances in which licence applications may be granted or refused.</p> <p>New Section 84 C Defines community premises, district, outlet, special consultative procedure and territorial authority.</p> | <p>Local Alcohol Plans (LAPs) are the key mechanism in the Bill for improving community input into liquor licensing decisions. The community lost this right in the review resulting in the current Sale of Liquor Act 1989.</p> <p>The concept of LAPs is a sound and welcome one, however being relatively new there is little evidence to support their effectiveness at reducing harm as yet. Experience in the UK and New South Wales Australia may lend some insight and lessons.</p> <p>The proposal gives essential legal status to the LAPs providing it is developed using the Special Consultative Procedure.</p> <p>Utilising such a consultation procedure is essential not only to support the legal status of the LAPs and their ability to withstand legal challenge, but to ensure consultation with Maori and with vulnerable groups and communities whose needs and concerns must be addressed.</p> <p>Issues such as hours, outlet density and location, poor management practices are directly linked with alcohol-related harm. (Ref Babor et al 2003, Kypri et al 2008, Huckle et al 2008). Strategies in the LAP must be aimed at reducing the impact of these on communities i.e. actually reducing the hours of operation and outlet numbers/density through “sinking lid” type policies.</p> <p>It is not clear in the Bill whether other matters can be included in the LAPs.</p> <p>Matters such as how ongoing community input will be ensured and local management of advertising and promotions are not currently included in the scope of the LAPs.</p> <p>LAPs do have the potential to be effective harm reduction tools, however, this is dependent on a number of factors including: the quality and accuracy of information used to prepare and monitor them, the range and effectiveness of strategies put in place, the robustness of the consultation and delivery processes.</p> |

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| <p>Liquor Licensing in relation to Local Alcohol Plans Amendments to sections 12, 21 34, 44, 58, 67, new section 78A. Provides for unopposed applications to be forwarded to the Liquor Licensing Authority (LLA) if the DLA thinks them inconsistent with a Local Alcohol Plan (LAP) and Requires DLA to impose conditions on licences it grants if it thinks that granting the licence without conditions would be inconsistent with the LAP. Applies to on, off, club and special licences Amendments to section 45 Imposes similar requirements for licence renewals</p> | <p>In order to offer protection to communities, thus prevent the need for exhaustive efforts to prevent an unwanted licensed outlet for example, LAPS must actually be in place. It is therefore essential that all TAs adopt them, i.e. they are mandatory. To support this, barriers to preparing effective LAPs, such as costs of full consultation processes and increased capacity of TAs must be addressed. Costs could be covered through alcohol taxation or increased licensing costs.</p> <p>Guidelines for developing LAPs would be useful and support consistency across the nation.</p> <p>Ideally the LAPs would form part of a national strategy towards achieving specific harm reduction objectives.</p> <p>Ideally there would be a requirement for TAs to work collaboratively with statutory agencies, including Medical Officer of Health on the development of the LAPs</p> <p>Social Impact Reporting on alcohol is another new and promising concept introduced. Again effectiveness will depend on the availability of appropriate data at district/local level and skilful analysis of this and other information. This reporting would best be done by those with public health, social science qualifications and experience drawing on support and input from community and statutory agencies. Any barriers to effective reporting, such as costs and resourcing need to be addressed.</p> <p>Current law focuses on the granting of licenses. This proposal provides criteria on which a licence may be refused. Current Act provides for DLA to grant all unopposed applications.</p> <p>These provisions make essential links between the liquor licensing process and proposed LAPs.</p> |
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| <p>Amendments to sections 13, 22, 35, 59, 68, 79 Requires LLA to have regard to any LAP and must NOT grant a licence if there is an applicable plan in place, if granting the licence would be inconsistent with the plan and the local authority (TA) has not notified the LLA of its support for the granting of the licence. Also requires the LLA to impose conditions on any licence as per DLA above. Applies to on, off, club and special licences and licence renewals</p> <p>Amendments to sections 14, 39, 60, 80 Allows for the DLA or LLA to impose conditions provided for in an applicable LAP and</p> <p>Amendments to sections 16, 62 Prohibits variation of conditions of licence that are would make licence inconsistent with LAP. Applies to on, off, club and special licences</p> <p>Off Licences</p> <p>Amendments to section 35, 45 LLA must not grant an off-licence for any premise within a shop (other than a supermarket) or grocery store with floor area of at least 150m² – refer amendments to section 37 see below. Also applies to renewals</p> <p>Amendments to section 37 Restricts the range of liquor able to be sold from off-licences within a shop, or adjacent to supermarket and under the same management as the supermarket to wine, fruit wine, mead and beer</p> <p>Amendments to section 36 Allows for grocery outlets smaller than 150m² to be restricted from obtaining an off-licence unless the LLA is satisfied certain conditions are met. One such condition being there is not a supermarket within 10km. All applications for such premises must be considered by LLA.</p> | <p>It was Government’s intention of the current law that only supermarket type grocery stores be permitted to sell alcohol, and that this was limited to the sale of wine, beer and mead. Experience has shown that other grocery and department type stores have been granted licenses, some even selling the full range of alcohol beverages. This proposal makes the original intent clear and operative by excluding other store types.</p> <p>The link with section 37 also strengthens the restriction of supermarkets to selling only wine, fruit wine, beer and mead, thus preventing their sale of spirits and spirit-based drinks (RTDs).</p> <p>Evidence shows smaller grocery outlets are more likely to sell to minors and fail to check ID of young purchasers, than other types of outlets. (ref Huckle et al 2004)</p> <p>This proposal attempts to reduce the number of smaller grocery outlets through a size limit. Attempts to achieve this through definitions of premise types have failed. Some stakeholders believe size is not the issue; rather that it is the practices of the licensee/manager.</p> |
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| <p>Transitional Period New sections 255 -258 and amendments to section 229 Allows for a transitional period of 3 years whereby licences can be granted or renewed. Renewals of Licences that are inconsistent with LAP or no longer meets criteria for off-licence (i.e. small grocery) cannot extend beyond three years. No compensation to be paid for eventual non-renewal of licence.</p> <p>Public Notification Amendments to sections 9, 18, 31, 41, 55, 64 Requires applicants of a liquor licence to notify District Licensing Agency (DLA) of the publications and day/s public notice of application will be given. Applies to on, off, club licenses and licence renewals (<i>specials?</i>)</p> <p>Premise Management “Three Strikes and You’re Out” New sections 135 A&B Provides for Police or DLA Inspector to apply to LLA for cancellation of a manager’s certificate based on 3 adverse findings (convictions) for offenses relating to sale or supply to minor within 2 years. Such a cancellation would remain in effect for 5 years.</p> | <p>While a transitional period is necessary, it effectively delays a response to communities already burdened by alcohol-related harm - potentially for 4-6 years.</p> <p>An option for consideration is enacting a moratorium on all new off-licence applications, until such a time that LAPS or other such mechanism to protect communities are in place.</p> <p>This would be a useful addition providing that the DLA makes this information available to the community through a variety of media including the internet, community centres and public libraries.</p> <p>Ideally public notification of licence applications would be extended to include direct communication (via letterbox) to residents within a specified radius of proposed premise e.g. 2km. Any additional costs to be met by applicant through increasing licensing fees.</p> <p>There are over 14,500 licensed premises in NZ. Enforcement and monitoring resources may not allow the necessary level of surveillance required to identify 3 breaches of the law in a 2 year period. Offending of this nature is serious and ideally maximum sanctions should be imposed on first offending to signal the need for improved compliance. Cancellation of manager’s certificate should occur with second offence. Similar approach is required with the licensee.</p> <p>A requirement for premise policies for checking ID, and staff support and training to comply with these could also be introduced as a condition of license. Evidence supports this being effective in reducing sales to minors. (ref. Babor et al 2003, Stockwell et al 2005)</p> |
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| <p>Advertising and Promotions</p> <p>New part 6A, new sections 136A – 136G</p> <p>Principals that:</p> <p>Liquor advertising and promotion should not be inconsistent with the promotion of responsibility and moderation in the consumption of alcohol; and</p> <p>The overall exposure people under the age of 18 years to liquor advertising and liquor promotion should be minimised; and</p> <p>Liquor advertising and promotion should not hold strong appeal to children or young people</p> <p>Empowers Minister of Justice and Health to recognise body - Liquor Alcohol Advisory Body (LAAB) for the purpose of;</p> <ul style="list-style-type: none"> • Developing and reviewing codes • Devising appropriate ways of engaging with community to elicit range of views on code review • Administering complaints process • Referring complaints outside of its jurisdiction and serious or persistent breaches of codes to Director General of Health (DGoH) • Internal process monitoring • Arranging independent audit <p>Provides for LAAB to act in accord with a Memorandum of Understanding to be agreed between LAAB and DGoH.</p> <p>Provides for DGoH to issue ‘cease and desist’ if advertisement/promotion is contrary to principles of codes – but only on advice of LAAB. Order may require withdrawal of advertisement, no further publication and corrective advertising.</p> <p>Penalties (fines) apply for failure to comply with cease and desist order – up to \$200,000 for corporate and up to \$60,000 for other.</p> | <p>The Bill moves alcohol advertising and promotion under the Sale of Liquor Act and its objective of reducing alcohol-related harm.</p> <p>Evidence on the effects of alcohol advertising concludes;</p> <ul style="list-style-type: none"> • Repeated exposure inculcates pro-drinking attitudes and increases the likelihood of heavier drinking • Cumulative effects shape young people’s perceptions of alcohol and drinking norms • Predisposes minors to drinking well before legal age of purchase • Strategies such as sports sponsorship embed images and messages about alcohol into young peoples everyday lives • Self-regulation is ineffective <p>Alcohol advertising undermines efforts to reduce harm and runs counter to health promotion messages.</p> <p>New Zealand evidence shows that young people under 18 years are exposed to as much alcohol advertising as those over the legal purchase age. (ref. Huckle et al 2008).</p> <p>While including a principal to reduce exposure the Bill provides no mechanisms through which this will be achieved.</p> <p>The Bill is silent on issues such as alcohol sponsorship and price promotions. Both of these are linked with increased harmful drinking patterns.</p> <p>Proposals amount to minor improvements of the status quo in the shift from ‘self regulation’ to ‘enforced self-regulation’.</p> <p>Continuing with a reactive complaint- based system is completing inadequate. The threat of cease and desist orders and penalties are too little too late.</p> <p>It is really important to call for meaningful restrictions on the marketing of alcohol – realistically this requires a comprehensive ban on alcohol advertising and sponsorship.</p> |
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| <p>Offences and Enforcement</p> <p>Evidence of Age New subsection 4 of Section 155 and amendment to section 164 Removes the defence of 'believed on reasonable grounds' that person was 18 years or more when selling or supplying liquor. Only defence will be that an evidence of age document was sighted. Also applies to those who allow those under 18 years to enter or remain in restricted or supervised areas on licensed premises.</p> <p>New section to replace section 172 Creates an offence to present a false evidence of age document at licensed premise and to sell, hire, lend, give or otherwise dispose of false prescribed evidence of age document.</p> <p>Social Supply Amends section 160 It will not be an offence to supply alcohol to those under 18 years if you are the parent or guardian; or</p> <p>The young person is at a private social gathering, and the supplier has the consent (express or implied) of their parent/guardian.</p> <p>Referral to Treatment New section 164A Allows Police to refer young person issued with infringement notice under 162C or (38C of Summary Offences Act) to approved alcohol early intervention programme. Infringement notice process will be discontinued if certificate of programme completion is presented.</p> <p>Riots and Disorder Amends section 173 Provides for senior Police to order that every licensee in or within specified distance of a place where there is or seems likely to be a riot to close for sale of liquor extending current effect from end of current day to 48 hours.</p> <p>Amends section 174 Empowers Police to close premises where fighting or disorder has broken out until order has been restored and order any person to leave premises. As above extends effect to 48 hours.</p> | <p>Proposal amounts to a slight tightening of current Act.</p> <p>To recognise severity of offending maximum penalties must be applied.</p> <p>Likely to help reduce current high levels of false ID use.</p> <p>Adequate enforcement required to be effective. Proposal attempts to close a loop-hole in current law allowing supply to minors at 'private social gathering' by adding consent requirements. Enforcement issues exist in achieving proof of consent. Ideally parents/guardians would be the only legal suppliers of alcohol to those under 18 years, and laws establish a requirement for supervision of and responsibility for consumption by minors.</p> <p>Proposal is good in principle. Effectiveness would depend on the timely access to effective and appropriate treatment options for youth, especially culturally appropriate options. Availability of such programmes must be assured prior to implementation.</p> <p>Proposal supports Police ability to protect public safety.</p> <p>Proposal supports Police ability to protect public safety.</p> |
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Part Two: Key amendments to the Summary Offences Act 1981

| Proposed Changes | Comment |
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| <p>Amends section 2 (1) Replaces definitions of intoxicating liquor with liquor as per Sale of Liquor Act and of young person as that being under 18 years of age.</p> | <p>Aligns Summary Offences Act with Sale of Liquor Act.</p> |
| <p>New section 37A Makes it an infringement offence (fine of up to \$2000) for an adult to supply minor without consent of parent/guardian. Defence if person believed consent had been provided.</p> | <p>Aligns Summary Offences Act with Sale of Liquor Act proposals.</p> |
| <p>New section 44A Provides for forfeiture of liquor seized by Police from young person who is issued with infringement notice</p> | <p>Supports Police to prevent further harm by removing alcohol. Strengthens impact of penalty.</p> |
| <p>New section 37A Provides for forfeiture of liquor seized by Police from person who is issued with infringement notice (drinking in public place) – even if infringement fee paid.</p> | <p>Supports Police to prevent further harm by removing alcohol. Strengthens impact of penalty.</p> |

Part Three: Key amendments to the Land Transport Act 1998

| Proposed Changes | Comment |
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| <p>Blood/Breath Alcohol Concentration Amends sections 11 and 57 Make it an offence for people under age of 20 years who do not have full drivers licence to drive or attempt to drive a motor vehicle while there is alcohol in breath or blood.</p> <p>Extends definitions of “positive evidential breath test” to include those considered under age of 20 who do not have a full licence.</p> | <p>Young people are over represented in alcohol injury outcomes and road crashes in the most significant contributor. (ref Habgood 2001)</p> <p>Developmental factors are important as is driving experience.</p> <p>Even small amounts of alcohol impairs driving ability, therefore it is vital that those learning to drive or gaining driving experience do so without the influence of alcohol.</p> <p>Ideally a zero tolerance approach would apply to all young drivers under 20 years, regardless of licence type/status.</p> <p>A zero tolerance approach would ideally apply to all restricted licence holders regardless of age.</p> <p>Evidence supports reducing the legal blood alcohol concentration for adult drivers from the current 0.08mg/ml to 0.05mg/ml would be effective at reducing current crash and injuries on the road.</p> <p>This would complement the changes proposed for youth.</p> |

What’s missing in the Bill?

The Bill has a strong focus on addressing youth drinking issues however, effective policy options have been ignored. These include:

- returning the legal purchase age to 20 years
- increasing price and addressing discount pricing
- banning advertising and sponsorship of alcohol as per that of tobacco

Other effective population-based policy options that need to form part of a comprehensive national strategy to reduce alcohol-related harm include;

- lower the legal Blood Alcohol Concentration for adult drivers to 0.05mg/ml
- introduce warning/advisory statements on alcohol, point of sale and any advertising remaining permissible.

For further information or support please contact:

General enquiries Anne-Marie Coury 09 520 7038 or anne-marie@ahw.org.nz

Maori Roopu waea mai ki a Todd Bell 09 913 7547 or todd@ahw.org.nz

Road Safety enquiries Roanne Govender 09 520 7039 or roanne@ahw.org.nz

Preparing Your Submission

There is no set format for submissions other than being easy to read and well organised.

Head your submission with the name of the Select Committee and the full name of the Bill. In this case the **Justice and Electoral Select Committee Submission on Sale and Supply of Liquor and Liquor Enforcement Bill 2008**.

State clearly who the submission is from and include the name of the organisation, the contact person, their role and their address and daytime phone number.

If you wish your details to remain private you may request this in a covering letter, including your contact details in your letter and removing them from the submission.

If you want to speak to the committee in person you must say so and if others wish to support your presentation, you must include their names and what links they have to your group e.g. chairperson.

You may go to www.parliament.nz and do your submission on-line.

For more detailed guidance, go to <http://www.parliament.nz/en-NZ/HvYrSay/Submission/a/9/8/a984338c3a574fcbb2adafa93aadd14f.htm>

For hard copies, make two copies and send these postage free. Just write Parliament Buildings where the stamp goes.

If you are writing for your organisation, give brief details about the organisations aims, objectives, membership and structure. Show how widely you have consulted and how much support you have for your views.

The five key principles you need to follow are:

- 1) Relevance – state your concerns in relation to the Bill, giving reasons
- 2) Clarity – order of sentences, developing an argument, discussing issues in sequence, not jumping around
- 3) Concise – be simple and direct
- 4) Be accurate and complete and give references to your research or evidence.
- 5) Restate your recommendations in your conclusion or in an executive summary at the beginning.

Alcohol Healthwatch encourages you to get involved and write submissions on alcohol related harm issues on this Bill.

Go to www.ahw.org.nz/action_on_liquor.html for briefing papers on the Sale of Liquor Act, Alcohol Advertising and Marketing, Alcohol Excise Tax, Reducing BAC, and Facts Sheets on Young People and Alcohol, Marketing, .05 BAC.

Other helpful web sites are:

Group Against Liquor Advertising www.gala.org.nz

Alcohol Advisory Council of New Zealand www.alac.org.nz

Some useful references

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Kypri, K et al 2008 *Alcohol outlet density and university student drinking: a national study* School of Medicine and Public Health, University of Newcastle, Australia,

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Stockwell, T et al 2005 *Preventing Harmful Substance Use – the evidence base for policy and practice* Wiley and Sons U.K.

WHO 2005 *Interpersonal Violence and Alcohol Policy Briefing*
<http://www.euro.who.int/violenceinjury>