

The LAW COMMISSION'S RECOMMENDATIONS

Extracted from their report *Alcohol in Our Lives: Curbing the Harm* April 2010

By Alcohol Healthwatch

What New Zealander's Said:

WHAT SUBMISSIONS SAID: LICENCE CRITERIA AND GROUNDS FOR REFUSAL (page 42)

Litmus analysis of this policy question revealed 903 out of 2,939 submissions commented on the range of policy options presented regarding the adequacy of the current criteria for issuing licences and the sufficiency of grounds for objecting to licences. Of these 903 submissions:

- 46% supported in general changing the law to allow a refusal of licences on wider grounds;³⁷
- 39% explicitly supported allowing the licence decision maker to refuse licences on the grounds that the social impact of the licence would be detrimental to the wellbeing of the community.

Alcohol industry submissions noted the need for consistency and transparency in licence decision making.

WHAT SUBMISSIONS SAID: RESTRICTIONS ON TYPE OF OUTLET ALLOWED TO SELL ALCOHOL (page 44)

Litmus analysis of this policy question revealed 1,931 out of 2,939 submissions commented on the range of policy options dealing with restrictions on outlets and the range of alcohol products they are able to sell. Most submissions focused on restricting the types of off-licence outlet. Of the 1,931.⁴³

- 69% supported specifying and further restricting the types of premises for which off-licences may be granted, in particular, restricting small grocery stores or dairies from selling alcohol. However, opinion was inconsistent on how small grocery stores or dairies were defined for licensing purposes.

WHAT SUBMISSIONS SAID: RESTRICTIONS ON HOURS OF TRADING (page 45)

Litmus analysis on this policy question showed 1,146 out of 2,939 submissions commented on the range of policy options relating to hours of trade. Of these 1,146.⁴⁵

- 78% supported restricting the opening hours of all off-licences on a nationwide basis;
- 52% supported restricting on-licence premises from selling alcohol after a specified time on a nationwide basis;
- 24% supported providing an extension to serve alcohol until 4am if the premises operated a one-way door policy preventing new customers from entering the premises after 2am.

WHAT SUBMISSIONS SAID: PURCHASE/DRINKING AGE (page 48)

Litmus analysis revealed that 2,272 out of 2,939 submissions commented on the range of policy options relating to a minimum purchase/drinking age. Of the 2,272.⁵²

- 78% supported an increase in the minimum purchase age, with 68% preferring 20 years;
- 12% supported a split purchase age;
- 4% supported a minimum age to drink.

WHAT THE SUBMISSIONS SAID: ADVERTISING AND MARKETING POLICIES (page 50)

Litmus analysis revealed 2,281 out of 2,939 submissions commented on the range of policy options presented on alcohol advertising and marketing. Of the 2,281.⁵⁵

- 86% supported banning or restricting all advertising of all alcohol in all media.

In contrast, submissions from advertisers, the alcohol industry and retailers supported no change to self-regulation because the industry is currently implementing the recommendations of the 2007 review of alcohol advertising.

WHAT THE SUBMISSIONS SAID: TAX AND PRICING POLICIES (page 52)

Litmus analysis revealed 2,015 out of 2,939 submissions responded to questions about price and tax. Of these:⁵⁷

- 76% supported introducing a minimum pricing per unit of alcohol;
- 77% supported increasing levels of current excise tax on alcohol.

The Recommendations:

RECOMMENDATIONS: SALE AND SUPPLY (Page 124)

- R1** The Sale of Liquor Act 1989 should be repealed and replaced by a new Act called the Alcohol Harm Reduction Act.
- R2** The new alcohol legislation should include the following object provision:
- The object of this Act is to establish a reasonable system for the sale, supply and consumption of alcohol for the benefit of the community as a whole, and in particular to:
 - (a) Encourage responsible attitudes to the promotion, sale, supply and consumption of alcohol.
 - (b) Contribute to the minimisation of crime, disorder and other soc
 - (c) Delay the onset of young people drinking alcohol;
 - (d) Protect and improve public health;
 - (e) Promote public safety and reduce public nuisance; and
 - (f) Reduce the impact of the harmful use of alcohol on the Police and public health resources.
- R3** The definition of “alcohol” in the new legislation should provide:

- Alcohol means any fermented, distilled, or spirituous liquor (including spirits, wine, ale, beer, porter, honeymead, stout, cider, and perry) that is found on analysis to contain 1.15% or more alcohol by volume

RECOMMENDATIONS: LICENCE CRITERIA (Page 151-152)

- R4** Every local authority should be required to adopt a local alcohol policy.
- R5** In preparing the proposed policy, councils should consult with local iwi and hapu, Police, licensing inspectors, medical officers of health, and any other persons they consider appropriate.
- R6** Public consultation on the proposed policy should be undertaken pursuant to the special consultative procedure under section 83 of the Local Government Act 2002.
- R7** Policies should be required to include:
- a stocktake of the number, type and hours of licensed premises in the district;
 - the demographic and socio-economic make-up of the local population, and overall health indicators;
 - a broad assessment of the range and level of alcohol-related problems occurring within the district;
 - permitted areas for licensed premises;
 - areas, if any, subject to liquor ban bylaws; and a local process for managing intoxicated people in public places through collaboration of police, ambulance and health services.
- R8** Local alcohol policies may include:
- a strategy for reducing alcohol-related harm in the district;
 - local restrictions on the national hours prescribed in the statute for the opening and closing of licensed premises; and/or
 - areas in the district that may reasonably be identified as having reached or being close to reaching saturation levels in terms of the cumulative impact of licensed premises (there being a rebuttable presumption that further licences will not be granted in those areas).
- R9** Local alcohol policies should be renewed at least every six years, in conjunction with every second long-term council community plan in the relevant area.
- R10** Two or more territorial authorities should be able to develop a joint proposed policy for their combined districts.
- R11** Once a policy has been consulted on and agreed by the local authority, those who submitted on the policy should be able to appeal aspects of it to the Alcohol Regulatory Authority.
- R12** Resource Management Act and Building Code approvals for proposed licensed premises should continue to be required as a prerequisite to the consideration of a licence application.

R13 When considering any licence application, licensing decision-makers should be required to take into account:

- whether the applicant is a suitable person;
- the object of the Act;
- the provisions of the relevant local alcohol policy;
- whether the amenity or good order of the locality would be lessened by the granting of the licence; and
- whether the applicant has the appropriate systems, staff and training to comply with the law and manage the risks.

R14 Where existing licensed premises are inconsistent with a new local alcohol policy, conditions should be imposed to reduce the inconsistency as much as possible.

RECOMENDATIONS: OFF-LICENCES (page 176-177)

R15 The types of premises that are eligible for an off-licence should be reduced to the following:

- a specialist alcohol retailer or manufacturer;
- a food retailer where food, excluding confectionery, ice cream, soft drinks or ready-to-eat or takeaway food, comprises at least 50% of the annual sales turnover; and
- premises for which an on-licence is held (but not a restaurant, nightclub, entertainment venue or club, including sports clubs).

R16 Any other type of retailer should be able to be granted an off-licence if no other off-licence alcohol retailer is reasonably available to the public, and the grant of the licence would not encourage alcohol-related harm.

R17 The legislation should expressly prohibit the following types of premises from being eligible for an off-licence:

- a service station; and
- a takeaway-food outlet.

R18 Only specialist alcohol retailers or manufacturers and premises for which an on-licence is held should be able to sell spirits or RTDs under an off-licence. To be a specialist alcohol retailer, a store should be required to have the sale of alcohol as its “principal business”. The legislation should allow specialist alcohol retailers also to sell some food and other products. However, if the amount of food products in a specialist alcohol retailer is more than minimal, it will not be permitted to sell spirits and RTDs. Also, the stocking of non-food product lines needs to be consistent with and supplementary to a store’s status as a specialist alcohol retailer.

R19 A specialist alcohol retailer within a supermarket or grocery store should only be able to sell wine, beer and mead.

R20 Supermarkets should be required to keep liquor in one place on the premises (known as a “single-area restriction”) as a condition of their licence. This will prevent supermarkets placing alcohol at the end of aisles, in doorway entrances and among other goods.

R21 Caterers should be required to obtain an on-licence rather than an off-licence, but the law applying to caterers should otherwise remain unchanged.

R22 Internet alcohol retailers should be required to:

- display their licence on their website as well as at their physical premises;
- make purchasers declare that they are over the legal alcohol purchase age and explain clearly the consequences of making a false representation to a licensee, manager or employee; and
- accept credit card payments as the only method of purchase by members of the public.

R23 Internet alcohol retailers should be exempt from:

- the national maximum hours requirements, but deliveries should not be permitted before 6am or after 10pm;
- the requirement that an off-licence must display its opening hours at its physical premises; and
- the requirement for a manager to be on duty at all times when alcohol is sold.

RECOMENDATIONS: ON-LICENCES (page 195-196)

R24 Mandatory statutory conditions placed on on-licence and club premises should include:

- the provision of food for consumption on the premises;
- the sale and supply of low-alcohol beverages and soft drinks;
- the provision of free drinking water; and
- the provision of assistance with, or information about, alternative forms of transport.

R25 Discretionary conditions to be imposed on on-licence and club premises depending on the circumstances should include (in addition to specified existing conditions):

- the provision of CCTV cameras, including requirements for their location and number;
- the provision of seating;
- no serving in glass containers at specified times;
- the number of door staff required;
- no shots or particular types of drinks to be served after specified times;
- a limit on drinks sizes after specified times;
- a limit on the number of drinks per customer;
- restrictions on permitted drinking vessels;
- no alcohol service for a specified time before the closing of a licensed premises
- conditions relating to management, for example, with a requirement for multiple managers at large establishments;
- the provision of transport for patrons.

- R26** For off-licences, there should be a mandatory condition for specialist alcohol retailers to be designated as supervised areas, and a discretionary power to impose conditions relating to lighting and security measures (in addition to specified existing conditions).
- R27** For supermarkets, there should be a mandatory condition for a single area restriction.
- R28** The licensing decision-makers should be able to impose any reasonable condition designed to minimise harm on all licences.
- R29** The Alcohol Regulatory Authority should issue guidelines on the types of conditions that are suitable to address particular risks.
- R30** There should be a power to consult and make regulations concerning the R30 provision of point of sale information about the alcohol unit content of drinks and health information.
- R31** Off-licences should be required to close no later than 10pm at night and not reopen until 9am.
- R32** On-licences and licensed clubs should be required to close no later than 4am, with a mandatory one-way door from 2am, and not reopen until 9am. The one-way door requirement means people cannot enter after 2am but do not have to leave until 4am or the premises' closing time, whichever is earlier.
- R33** The legislation should refer to the Gambling Act 2003 exception to the national maximum hours for casinos.
- R34** When setting the trading hours for a licence, the licensing decision-makers should not be able to set maximum trading hours that are longer than the national maximum hours.
- R35** Territorial authorities should have the discretion to restrict hours further than the national maximum hours under local alcohol policies.
- R36** All sales of alcohol at an off-licence should be prohibited on Good Friday, Easter Sunday, Christmas Day, and Anzac Day before 1pm.
- R37** Sales of alcohol at any on-licence or licensed club on a prohibited day should only be authorised if the alcohol is sold and supplied in association with the eating of a meal. Alcohol should be considered to be sold and supplied in association with the eating of a meal if it is provided to a consumer after he or she orders a meal and before he or she finishes eating the meal, or within one hour before he or she orders the meal or after he or she finishes the meal.
- R38** On prohibited days, on-licenses should be able to remain open until their usual closing time on the night before the prohibited day, but must remain closed for a 24-hour period from this time.

RECOMENDATIONS: LICENSING BODIES (page 206-209)

- R39** District Licensing Agencies should be replaced by new District Licensing Committees.

- R40** The membership of each District Licensing Committee should consist of a councillor selected for the task by the relevant council, and two members of the community appointed by the council.
- R41** If there are insufficient councillors, councils should be able to appoint a commissioner in place of the councillor representative on the District Licensing Committee.
- R42** The process for appointment of community members to the District Licensing Committee should be publicly advertised, and the selection of community members should be undertaken in consultation with the New Zealand Police, licensing inspectors and medical officers of health.
- R43** There should be a requirement for community members to have particular knowledge and experience in areas specified in the statute, such as:
- public health;
 - the social issues of the particular community in which the District Licensing Committee is situated;
 - the liquor industry (but not be currently participating in this);
 - law enforcement (but not be currently participating in this); or
 - legal or regulatory matters.
- R44** The functions of District Licensing Committees should be to:
- consider and determine all applications for licences;
 - hold hearings on all opposed applications;
 - impose conditions on successful licence applications, in accordance with the statute and any national guidelines developed by the Alcohol Regulatory Authority;
 - determine applications for managers' certificates;
 - process or determine licence renewals under a new streamlined process;
 - consider and determine amendments to licence conditions upon application by an inspector or the Police;
 - gather information, monitor and keep records on licences within the district; and
 - report regularly to the Alcohol Regulatory Authority.
- R45** Two districts should have the power to form a combined District Licensing Committee if the workload would warrant this.
- R46** The statute should permit a District Licensing Committee to delegate unopposed applications for managers' certificates and licence renewals to the Secretary of the District Licensing Committee, which should be a full-time position.
- R47** All District Licensing Committee members should receive training to enable them to undertake their functions properly.
- R48** The statute should enable councils to have a pool of District Licensing Committee members and to establish more than one committee for its area, as needed.

- R49** On receipt of an application for a licence, the District Licensing Committee should notify the application on a designated website, notify residents within 200 metres of the proposed premises and require the applicant to affix a notice in the prescribed form to the proposed site.
- R50** All licence applications should be forwarded to a licensing inspector, a medical officer of health, and the New Zealand Police. Licensing inspectors should report on all applications. The Police and medical officers of health should report only if they have any concerns relating to the proposed licence.
- R51** Inspectors should be employed by the local authority.
- R52** Licensing inspectors should have independent statutory powers.
- R53** The statute should expressly provide that inspectors have reporting, monitoring, educative, and enforcement roles.
- R54** The statute should provide for delegation of the medical officer of health functions to designated health officers.
- R55** The statute should state that the functions of medical officers of health include education of licensees and collaborating with licensing inspectors and the Police on alcohol harm reduction strategies.
- R56** Local Government New Zealand should consider requiring training for licensing inspectors.
- R57** Decisions made by a District Licensing Committee should be appealable by anyone appearing before the committee to the Alcohol Regulatory Authority, although inspectors should be required to first obtain leave to appeal from the Alcohol Regulatory Authority.
- R58** The appeal fee should also be waived for enforcement officers.
- R59** The Liquor Licensing Authority should be replaced by a new Alcohol Regulatory Authority.
- R60** The main function of the Alcohol Regulatory Authority should be to hear appeals from decisions of the District Licensing Committees and applications for suspension or cancellation of licences.
- R61** The expanded functions of the Alcohol Regulatory Authority should include:
- monitoring and reporting to Parliament on annual trends in its case load, alcohol consumption, marketing, and alcohol-related harm in New Zealand;
 - making rulings on promotions of alcohol by both on- and off-licensees;
 - issuing Practice Notes and guidelines on matters within the Authority's jurisdiction;
 - monitoring and auditing the performance of District Licensing Committees and local alcohol policies;
 - enhancing the flow of data and information concerning licensing matters.

- R62** The Alcohol Regulatory Authority should comprise two District Court judges. One judge should sit in Auckland, and the other should cover the rest of New Zealand.
- R63** An Executive Officer should be created to administer the Alcohol Regulatory Authority and carry out the policy work related to its expanded functions.
- R64** Guidelines should be consulted on by the Executive Officer, and signed off by the two judges.
- R65** The legislation should set out in full the duties and powers of the Alcohol Regulatory Authority and District Licensing Committees, which should mirror those contained in the Inquiries Bill presently before the Parliament. This includes the power to award costs.
- R66** There should also be a requirement that the Alcohol Regulatory Authority and District Licensing Committees conduct hearings with as little formality as is consistent with a fair and efficient process.
- R67** There should be a general appeal on the merits against a decision of the Alcohol Regulatory Authority to the High Court

RECOMENDATIONS: LICENCE FEES, RENEWALS AND MANAGERS (page 218)

- R68** A risk-based licence application fee and annual renewal fee scheme should be consulted on and established by regulation.
- R69** Premises categorised as low risk and that have had no compliance issues in the preceding year should be granted a yearly licence renewal on the basis of payment of an annual fee.
- R70** If there are compliance issues for any low-risk premises, a licensing inspector should be able to require the licensee to formally apply for a licence renewal within three years of the date on which the licence was last renewed. An annual fee should still be payable.
- R71** Three-yearly applications for licence renewals should continue to be a requirement for premises not categorised as low risk, but these premises should also pay an annual fee, rather than a three-yearly licence renewal fee.
- R72** Licence renewal applications should be advertised by way of notification on the applicable District Licensing Committee website, and a physical notice in a prescribed form affixed to the premises.
- R73** The Hospitality Standards Institute or other appropriate body should review both the content of the unit standards required for manager's certificates and the rigour with which the unit standards are taught and tested.

RECOMENDATIONS: CLUB LICENCES (page 224)

- R74** There should be more rigorous enforcement of licensing laws for clubs than there is at present.

- R75** The current distinctions between the club licence and on-licence should be retained, with the exception that clubs should only be exempted from having a manager present when 20 or fewer people are present on the premises.
- R76** Managers of clubs should be required to have the same qualifications as general managers.
- R77** Some clubs should be authorised under the club licence at the licensing decision-maker's discretion to serve guests of a member of a club that has reciprocal visiting rights, but the purview of the club licence should not be expanded further than this.

RECOMENDATIONS: SPECIAL LICENCES (page 238)

- R78** The legislation should provide for four categories of special licence: public events, private events at licensed premises, trade fairs and extended hours.
- R79** In addition to the general licence criteria, applicants for a special licence should be required to show that the premises will be properly defined and appropriately monitored.
- R80** Licensing decision-makers should have the discretion to require applicants for special licences for large or high-risk events to submit a proposed event management plan.
- R81** It should be a mandatory condition of special licences that the free drinking water is supplied.
- R82** Licensing decision-makers should have the discretion to impose on a special licence any reasonable condition designed to minimise harm, including any of the mandatory or discretionary conditions that may be imposed on on-licences or licensed clubs.
- R83** The national maximum hours and prohibited days restrictions should apply to special licences unless exceptional circumstances apply.
- R84** The legislation should specify that clubs are required to obtain a special licence for a public event or private event at a licensed premises if they want to be able to serve the public.
- R85** The legislation should allow the fast-tracking of special licences for funerals at clubs.
- R86** District Licensing Committees should have a discretion about whether a special licence application needs to be publicly notified.

RECOMENDATIONS: EXEMPTIONS (page 246)

- R87** The exemptions based on the form of alcohol sold should be addressed in the definition of alcohol in the new legislation.
- R88** The legislation should continue to exclude sales of alcohol from a maker, importer, distributor, or wholesaler to a maker, importer, distributor, wholesaler or licence holder, and sales at homestays.

- R89** The exemption for prison officers' canteens should be removed from the new legislation.
- R90** The New Zealand Defence Force should no longer be exempted from licensing legislation, but the Chief of Defence Force should be delegated the authority to monitor and enforce the sale of alcohol law, and should be required to report annually to the Alcohol Regulatory Authority.
- R91** New Zealand Police canteens and New Zealand Fire Service canteens should no longer be exempted from licensing legislation, but they should be treated as clubs.
- R92** The House of Representatives should no longer be exempt from licensing legislation. The Speaker of the House should retain the sole authority to monitor and enforce this legislation.
- R93** Permanent charter clubs should no longer be exempt from licensing legislation, but should be required to obtain club licences.

RECOMENDATIONS: LICENSING TRUSTS (page 250)

- R94** The legal mechanism for monopoly licensing trusts should be retained in the new legislation.
- R95** Regulations should require that a petition must be submitted to the R95 Alcohol Regulatory Authority rather than a licensing trust.

RECOMENDATIONS: AGE RESTRICTIONS (page 266)

- R96** Increasing the minimum purchase age to 20 years for all licensed premises including:
- (a) making it an offence to sell or supply alcohol on licensed premises to anyone under the age of 20, even if accompanied by a parent or guardian;
 - (b) making it an infringement offence for anyone under the age of 20 to purchase or consume alcohol on licensed premises.
- R97** Making it an offence for anyone under the age of 20 to drink or possess alcohol in a public place, even if accompanied by a parent or guardian.
- R98** Introducing an offence for any person to supply alcohol to a minor under the age of 18 unless that person is the minor's parent or guardian or a responsible adult authorised by the parent or guardian and unless the alcohol is supplied in a responsible manner. This means that any person legally entitled to supply a minor who then fails to supply in a responsible manner, including providing appropriate supervision, also commits an offence.
- R99** Increasing the minimum age for people employed to sell alcohol at an on-licence to 20 years.

RECOMENDATIONS: PRICING (page 321)

- R100** The excise tax rate should be increased by 50%, which will increase the price of alcohol by around an average of 10%. The excise increase will have the greatest price impact on cheap alcohol products, which are preferred by heavy and young drinkers. Other things being equal,

the price increase would be expected to reduce overall consumption by approximately 5%, and possibly more in the longer term. It is conservatively estimated that such an excise increase would provide a net benefit to New Zealand of a minimum of \$72 million annually, by reducing the costs of alcohol-related health harms and health care costs.

R101 The excise tax on low-alcohol products up to 2.5% alcohol by volume should be removed to encourage the development of such products.

R102 Given the potential for a minimum price regime, in association with excise tax, to reduce the availability of cheap alcohol, the government should fully investigate a minimum price regime.

R103 Retailers and producers should be required to provide sales and price data to enable the government to investigate a minimum price regime and to be able to effectively model the impacts of changes in excise tax levels.

RECOMENDATIONS: ADVERTISING, SPONSORSHIP AND PROMOTION (page 362)

R104 An interdepartmental committee, overseen by the Ministers of Health and Justice, should plan and implement the management of a phased programme to limit exposure to alcohol promotion and restrict the content of alcohol promotion messages, including alcohol-related sponsorship.

R105 A new regime should be in place within five years.

R106 Stage 1 of the programme, comprising a new offence relating to the irresponsible promotion of the consumption and supply of alcohol (replacing section 154A of the Sale of Liquor Act 1989), should be implemented immediately.

R107 The new provision should make it an offence to:

- in the course of carrying on a business, encourage the consumption of an excessive amount of alcohol, whether on licensed premises or at any other place;
- promote or advertise alcohol in a manner that has special appeal to people under the age of 20;
- promote or advertise alcohol, except in store or on premises, in a manner that leads the public to believe the price is 25% or more below the price at which the alcohol is ordinarily sold;
- promote alcohol that is free or
- offer any goods or services on the condition that alcohol is purchased.

R108 The interdepartmental committee should consider legislative measures to be introduced at stage 2 of the programme. These measures are aimed at reducing exposure to advertising, particularly for young people.

R109 The interdepartmental committee should consider stage 3 measures with the aim of restricting the promotion of alcohol, including sponsorship, in all media. No alcohol advertising should be allowed in any media other than advertising that communicates objective product information, including the characteristics of the beverage, the manner of its production and its price.

RECOMENDATIONS: OFFENCES, MONITORING AND ENFORCEMENT (page 387-389)

- R110** A statutory definition of “intoxication” using the definition of “intoxicated” in the Policing Act 2008 should be adopted in the new legislation.
- R111** The new Alcohol Regulatory Authority should be empowered, by statute, to issue a public guideline to assist in determining whether a patron of a licensed premises is or is not intoxicated.
- R112** It should be an offence for any manager or employee to be intoxicated while working on licensed premises. The maximum penalty for this offence should be \$2,000.
- R113** The only defence to sale and supply of alcohol to a minor should be that the person selling or supplying alcohol has sighted an evidence of age document that belongs to the person to whom alcohol is sold and that shows the person to be 18 years or older.
- R114** An amendment should be made to the offence of making a false representation to obtain alcohol to the effect that the offence is not committed by a person who makes a false representation (other than in writing) at the request of a member of the Police acting in the course of their duties.
- R115** Licensees, managers and licensed door staff should be given the power to confiscate false evidence of age documents or evidence of age documents that have been tampered with. This power should not extend to passports.
- R116** A new infringement offence should be created for an individual who lends a genuine evidence of age document to a minor, knowing that the minor intends to use the document to obtain entry into licensed premises or be sold alcohol on those premises.
- R117** The Chief District Court Judge should designate several District Court judges in each of the six judicial regions to be involved in the hearing of alcohol offences and associated sentencing. These judges should be given additional training in sale of alcohol matters, and the new Alcohol Regulatory Authority should assist in this.
- R118** The following offences should be made infringement offences under the new legislation while retaining the ability to proceed summarily, as currently provided in section 162B of the Sale of Liquor Act 1989:
- permitting people under the age of 20 in a restricted or supervised area;
 - sales of spirits otherwise than in a glass;
 - licensee offences in respect of a manager being present at all times;
 - making a false representation as to age (whether in writing or not);
 - serving alcohol on licensed premises while intoxicated.

The maximum penalty for infringement offences should be set by regulations, but should not exceed \$1,000.

- R119** A breach of a liquor licence condition (mandatory or discretionary) should also be an infringement offence.
- R120** Only liquor licensing inspectors and members of the Police should be authorised to issue infringement notices.
- R121** A manager's certificate should be automatically cancelled for five years where three adverse findings (either convictions or findings by the new Alcohol Regulatory Authority) are made against the manager for the following offences (whether or not of the same type) within a three-year period:
- sale and supply of alcohol to a minor;
 - sale and/or supply of alcohol to an intoxicated person;
 - unauthorised sale or supply of alcohol;
 - irresponsible promotions of alcohol.
- R122** A licensee's licence should be automatically cancelled for five years where three adverse findings (either convictions or findings by the new Alcohol Regulatory Authority) are made against the licensee for the following offences (whether or not of the same type) within a three-year period:
- sale and supply of alcohol to a minor;
 - sale and/or supply of alcohol to an intoxicated person;
 - unauthorised sale or supply of alcohol;
 - irresponsible promotions of alcohol.
- R123** There should be no bar on the new District Licensing Committees or Alcohol Regulatory Authority in considering the adverse findings, when determining future suitability to obtain a manager's certificate or licence after the five-year cancellation period.
- R124** The New Zealand Police should have the power to close all or a specified part of a licensed premises immediately where:
- a riot takes place within the licensed premises, or where there is reasonable ground for believing a riot could occur;
 - there is fighting or serious disorder, or there is reasonable ground for believing that fighting or serious disorder will break out within licensed premises;
 - there is a significant threat to public health or safety;
 - the conduct in the premises amounts to a substantial public nuisance;
 - offences have been committed that carry a maximum penalty of five years or more and there is a significant risk of further offences being committed by patrons if the premises remain open.
- R125** As soon as possible after the exercise of the power to close a bar immediately, the Police should be required to notify the local liquor licensing inspectors.

- R126** The duration of a court order or police order for closure of licensed premises should extend up to 24 hours beyond the end of the day on which the order is made.
- R127** Liquor licensing inspectors should have the same powers of entry as the Police under section 175 of the Sale of Liquor Act 1989.
- R128** There should be a statutory duty on the new District Licensing Committees, Police and health authorities to collaborate in the enforcement of liquor licensing.
- R129** All agencies should allocate adequate resources to ensure that effective liquor licensing collaboration is possible when implementing the new legislation.
- R130** A nationwide shared information system on liquor licensing should be developed.
- R131** Territorial authorities should collect data, such as that collected by the Far North Co-Location Project, so that changes in the nature and extent of alcohol-related harm in the area can be monitored and evaluated.

RECOMENDATIONS: ALCOHOL IN PUBLIC PLACES (page 402-403)

- R132** We do not recommend reintroducing the offence of public drunkenness.
- R133** We recommend the adoption of a civil cost-recovery regime that provides police with the power to serve a notice of debt on anyone who, because of intoxication, is either driven home, placed in temporary shelter or put in a police cell under the powers of detention that police have under section 36 of the Policing Act 2008, with a prescribed amount of \$250 or such extra amount as will make it economic to collect. The proceeds should go to the consolidated fund and any disputes should be dealt with by the Disputes Tribunals of the District Courts.
- R134** We recommend that, following a final evaluation, further funding be provided to enable existing watch-house nurses to continue in their role of assisting the Police in better managing the risks of those in their custody with mental health, alcohol and other drug problems, with particular consideration given to setting up additional services in high-volume locations.
- R135** We recommend an amendment be made to the definition of “public place” in the Summary Offences Act 1981 to codify case law and clarify that the definition of a public place includes within it a vehicle in a public place.
- R135** We recommend an amendment be made to section 272 of the Children, Young Persons, and Their Families Act 1989 to clarify that liquor infringement notices issued to minors, in limited situations where they are defended or for fines enforcement purposes, should be within the jurisdiction of the District Court, unless the young person faces other charges in the Youth Court and it is convenient to hear the matters together in that forum.
- R136** We recommend liquor ban bylaws have additional requirements before being created; these being that:

- the proposed area and timing can be justified as a reasonable limitation on the rights of freedoms of individuals;
- there is a high volume of offending or disorder in the proposed area that can be linked to alcohol;
- the evidence demonstrates that the density of offending and disorder, and the location of the offending, is such that the boundaries of the liquor ban are appropriate and proportionate.

R138 We recommend there should be collaboration between Local Government New Zealand and the Parliamentary Counsel Office to ensure an appropriate drafting template is produced to assist territorial authorities in making liquor ban bylaws.

R139 We recommend the definition of “public place” in section 147(1) of the Local Government Act 2002 is amended to include private carparks to which members of the public have access.

R140 We recommend signage provisions for liquor ban bylaws showing where they apply are laid down in a uniform fashion around New Zealand by regulation.

R141 We recommend the maximum fine for a breach of a liquor ban be \$500.

R142 We recommend the evidential standard for determining a substance is alcohol be that it is sufficient proof, in the absence of other evidence, where:

- the container is labelled as containing an alcoholic beverage and is of a type sold in the ordinary course of trade; or
- the content of a container, when opened, smells like an alcoholic beverage and the container appears to be one that contains an alcoholic beverage; or
- the defendant has admitted the container contains an alcoholic beverage.

RECOMENDATIONS: REGULATING ALCOHOL PRODUCTS (page 408)

R143 The legislation should contain a provision that allows particular alcohol products or classes of products to be banned if considered “undesirable” on the recommendation of the Expert Advisory Committee on Drugs. The criteria for determining that a product or class of products is “undesirable” should be that it:

- is particularly dangerous to the health;
- is targeted at or particularly attractive to minors; or
- encourages irresponsible, rapid or excessive consumption of the product.

RECOMENDATIONS: EDUCATION (page 419)

R144 The national marketing role of the Alcohol Advisory Council of New Zealand should continue.

R145 The Ministry of Education should encourage school boards of trustees to organise drug and alcohol education programmes that meet the needs of their communities.

R146 The multiple processes under way for considering the labelling of alcohol products should continue.

RECOMENDATIONS: TREATMENT (page 430-431)

R147 We recommend the key principles underpinning any changes to the alcohol addiction treatment system should be as follows:

- mental health and addiction services need to work as an integrated system;
- the system needs to deliver levels of intervention ranging from brief to intensive;
- the system response must be adaptable able to assess type and level of need;
- the roles, responsibilities and powers to coordinate care and treatment need to be specified;
- the system is interdepartmental, interministerial and cross sector – it involves, for example, the Health, Justice, Child, Youth & Family, ACC, Corrections and Transport sectors, which also fund treatment and/or rely on it to improve outcomes;
- care pathways are required to define how people with acute problems can get access to care.

R148 We recommend the Ministry of Health and Mental Health Commission be supported to develop a blueprint for addiction service delivery for the next five years. The work should be undertaken with support from key groups. In particular, the Alcohol Advisory Council and National Addiction Centre, along with all government agencies whose outcomes could benefit from improved access to alcohol addiction treatment services. This work should be based on best practice principles and address:

- level and type of service, how much, what type and location;
- required resourcing and staffing levels, including workforce issues;
- the design of a service system, including models of care pathways, service delivery systems and coordination.

R149 We recommend a National Mental Health and Addictions Helpline should be considered providing triage, advice, disposition and service coordination for district health boards.

R150 We recommend a policy be adopted requiring district health boards to develop care pathways along the lines of a plan put forward to us by the Mental Health Commission.

R151 We further recommend some of the proceeds of the increase in alcohol excise tax that we propose be applied to spending on alcohol treatment services and training.

R152 We have also found that intoxicated people are placing an unacceptable burden on police, ambulance services and acute health services but we cannot see a single national solution for this. We recommend relevant sectors work together to develop local strategies for managing intoxicated people.

R153 We recommend reviewing section 65 of the Land Transport Act 1998 and associated services with the aim of ensuring that: rehabilitation is addressed, barriers to receiving appropriate

treatment through the process are minimised, and interventions provided are effective and cost-effective.