Public Health Association of Australia submission on Liquor Amendment (24-hour Economy) Bill 2020

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The Public Health Association of Australia (PHAA) is recognised as the principal non-government organisation for public health in Australia working to promote the health and well-being of all Australians. It is the pre-eminent voice for the public’s health in Australia.

The PHAA works to ensure that the public’s health is improved through sustained and determined efforts of our Board, National Office, State and Territory Branches, Special Interest Groups and members.

We believe that health is a human right, a vital resource for everyday life, and a key factor in sustainability. Health equity and inequity do not exist in isolation from the conditions that underpin people’s health. The health status of all people is impacted by the social, cultural, political, environmental and economic determinants of health. Specific focus on these determinants is necessary to reduce the unfair and unjust effects of conditions of living that cause poor health and disease. These determinants underpin the strategic direction of the Association.

Our mission as the leading national organisation for public health representation, policy and advocacy, is to promote better health outcomes through increased knowledge, better access and equity, evidence informed policy and effective population-based practice in public health. Members of the Association are committed to better health outcomes based on these principles.

Our vision is for a healthy population, a healthy nation and a healthy world, with all people living in an equitable society underpinned by a well-functioning ecosystem and a healthy environment, improving and promoting health and wellbeing for all.

The reduction of social and health inequities should be an over-arching goal of national policy, and should be recognised as a key measure of our progress as a society. Public health activities and related government policy should be directed towards reducing social and health inequity nationally and, where possible, internationally.
The Bill

The Bill amends the Liquor Act 2007 and the Liquor Regulation 2018 to establish an integrated demerit points system and incentives scheme; to provide for cumulative impact assessments; to regulate same day deliveries of liquor; and to make miscellaneous amendments to the Act and regulation.

The Bill aims to:

- Create a new incentives and demerit point system that consolidates three existing sanctions schemes into one integrated approach to incentivise well run venues, and minimise violence and reduce serious breaches of liquor laws at the premises
- Support live music and entertainment by removing outdated entertainment conditions on liquor licences and waiving application fees to change or remove other existing live music conditions
- Continue to align liquor licensing and planning processes by:
  - Improving the approvals process for small bar licences
  - Refining Liquor & Gaming NSW’s regulatory role in noise complaint compliance and enforcement to reduce overlapping responsibilities
- Allow small bars to offer more family-orientated and diverse services for customers, to support small business and encourage broader use of this lower-risk licence
- Introduce a refined, evidence-based approach to help manage the density of licensed premises in areas with high concentration, and associated risks of alcohol-related violence and anti-social behaviour
- Make other changes to remove red tape, reduce overlap and improve how the industry is regulated
- Enhancements to same day alcohol delivery regulation to minimise the risk of supply to minors through comprehensive age verification requirements and training requirements for delivery drivers.

PHAA Response to the Bill

The PHAA welcomes the NSW government’s draft Liquor Amendment (24-hour Economy) Bill 2020, however, we would like to propose one key change that is required, and suggest other alterations that would improve the Bill.

Key change - same day alcohol delivery

Improved regulatory framework for same day alcohol delivery - Schedule 3

The PHAA applauds the NSW Government’s acknowledgement of the growth in online alcohol delivery services, which is currently estimated at around five per cent of all sales and increasing by 10 per cent annually.¹
Alcohol is responsible for a substantial burden of death, disease and injury in Australia, affecting not only the drinkers themselves, but also children, families and the broader community. The costs of alcohol-related harms are significant and far exceed government revenue from alcohol taxation.\(^2\)

Although there has been little research into the specific impacts of the growth in alcohol delivery services, international research literature demonstrates that, in general, increased physical availability of alcohol leads to higher levels of alcohol use and harm.\(^3\) It is argued these effects come from reductions in the cost of alcohol - either in monetary terms or through increased convenience of purchasing.\(^4\) Online alcohol delivery services have the potential to substantially increase convenience and encourage competitive pricing, and thus may contribute to increased harm.\(^1\)

The PHAA welcomes other proposed changes in this part of the Bill including the following:

- Interstate licensees must hold a NSW liquor licence if delivering alcohol stored in the State to NSW residents on the same day that the order is placed
- A two-step proof of age requirement to prevent minors accessing same day delivery alcohol
- Same day alcohol deliveries cannot be left unattended
- Same day alcohol cannot be delivered to an intoxicated person
- All people making same day deliveries must complete responsible supply of alcohol training
- For all same day alcohol deliveries, licensees to keep a record of non-delivery
- Ensure customers can exclude themselves from receiving same day alcohol
- Same day delivery alcohol will not be delivered into alcohol-free zones and alcohol prohibited areas
- The new framework will be reviewed after 2 years

**Other changes**

Additionally, we seek the following additional amendments and actions to improve the Bill.

**Alcohol should not be delivered late at night**

Time is an important factor affecting levels of alcohol harm. Alcohol-related assaults increase substantially between 6pm and 3am (peaking between midnight and 3am), with 37 per cent of alcohol-related assaults occurring in the home, and more than half (57 per cent) of those being domestic violence.\(^5\) Acute alcohol consumption increases the risk of attempted suicide,\(^6\) and at a population level greater levels of consumption are associated with increased suicide risk.\(^7\) In Australia, suicides and sudden or unnatural deaths involving alcohol predominantly happen at night, in the home environment.\(^8,\)^9

**Recommendation:** Although the draft bill introduces standard cut off times for making same day deliveries of 11pm on a Sunday and Midnight on any other day of the week, we recommend that there should be no delivery of alcohol between 10pm and 10am any day of the week.

**Delay between purchase and delivery**

There should be adequate delay between purchase and delivery of alcohol products to prevent enabling the continuation of an existing drinking session.

Australian research shows that 28 per cent of people who received a rapid alcohol delivery (within two hours) would have otherwise had to stop drinking alcohol, and that 69 per cent drank at a risky level on the occasion of receiving a rapid delivery.\(^1\) Twenty-two per cent of people who received a rapid delivery said part of the reason for using the service was because they were over the blood alcohol limit to drive.\(^3\)
The research also shows that people who recently received a rapid alcohol delivery were more likely to drink alcohol at risky levels in general, compared to people who recently received a non-rapid alcohol delivery.\(^1\)

**Recommendation:** We recommend that there should be a delay of at least two hours between purchase and delivery of alcohol products.

**Exposure of children**

Children under 18 years should not be exposed to advertisements for online sales and delivery of alcohol. Evidence shows that adolescents’ exposure to alcohol marketing increases their likelihood of commencing drinking at an earlier age or of drinking more if they are already using alcohol.\(^10\) Alcohol use can cause irreparable damage to the developing brain.\(^11\) Alcohol is an addictive psychoactive drug that diminishes responsible decision-making, leading to greater likelihood of risky behaviours, thereby magnifying the vulnerabilities of children. Alcohol contributes to the three leading causes of death among adolescents: unintentional injuries, homicide and suicide.\(^12\)

**Recommendations:** We recommend that alcohol advertisements, including ads for online sales and delivery of alcohol, should be restricted to viewing by those over 18 years of age. Businesses should take all available steps to prevent their alcohol advertisements being seen by children, and governments should strengthen the regulatory framework so that it protects children from alcohol advertising.

**Regulate use of data that reveals vulnerabilities**

Businesses should not act upon data that reveals vulnerabilities, such as alcohol dependency, and should not collect or use children’s data under any circumstance.

There is evidence that some population groups are especially vulnerable to the effects of alcohol and alcohol advertising.\(^13\) Targeted marketing using social media or email enables alcohol companies to reach individuals through their personal devices at locations and times when they are likely to be susceptible to the suggestion of an alcohol delivery. This marketing is based on users’ personal data, including previous purchasing habits. This puts vulnerable people at heightened risk, such as dependent drinkers, those living with dependent drinkers, and those experiencing mental ill-health. People’s vulnerabilities should not be exploited to sell alcohol. Consumers should have knowledge of and control over their data, including the ability to delete data. Consumers should also be able to self-exclude from marketing and online sales.

**Recommendations:**

- Alcohol companies and other data collectors should not be able to act upon data (whether consciously or through an algorithm) that reveals vulnerabilities in order to target marketing or offers.
- Alcohol companies and other data collectors must not collect, use or disclose children’s data for online profiling or targeted marketing.
- Consumers must be able to choose (and update) their communication preferences, including the option to self-exclude. The default option should be no marketing.
  - The consumer must receive a succinct, clear and easy-to-understand notice from the business when their personal information is collected that sets out how their data will be collected, used or disclosed, including for online profiling and targeted marketing.
  - The consumer must be given the ability to permanently delete data held about them by the business.
‘Buy now pay later’ services

People should not be able to purchase alcohol using ‘buy now pay later’ services. The practice of paying a purchase off in instalments over time subverts established pricing mechanisms designed to minimise harm to public health from alcohol, by enticing the consumer with a much lower upfront price. There is a substantial risk that this will simultaneously increase alcohol and credit dependency.

Recommendation: We recommend that businesses offering alcohol for sale and/or delivery must not offer the use of ‘buy now pay later’ services for alcohol purchases, including After-pay and Zip-pay.

Conclusion

PHAA supports the broad directions of the NSW government’s Liquor Amendment (24-hour Economy) Bill 2020. We are glad that the improved regulatory framework for same day alcohol delivery is in line with most recommendations to reduce alcohol associated harm. However, we are particularly keen that the government additionally:

- Limit delivery times to between 10am-10pm all days of the week
- Ensure a delay of at least two hours between purchase and delivery of alcohol products.
- Restrict alcohol advertisements, including ads for online sales and delivery of alcohol, to those under 18 years of age
- Ensure businesses cannot act upon data that reveals vulnerabilities, such as alcohol dependency, and cannot collect or use children’s data under any circumstance
- Not allow people to purchase alcohol using ‘buy now pay later’ services

The PHAA appreciates the opportunity to make this submission. Please do not hesitate to contact us should you require additional information or have any queries in relation to this submission.

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References