

**SUBMISSION**

**TO THE LAW AND ORDER  
SELECT COMMITTEE**

**ON THE SALE OF LIQUOR (YOUTH HARM REDUCTION)  
AMENDMENT BILL**

# SUBMISSION

## To the Law and Order Select Committee on the Sale of Liquor (Youth Alcohol Harm Reduction) Amendment Bill

### INTRODUCTION

1. This Submission is from the Alcohol Advisory Council of New Zealand (ALAC).
2. We wish to appear before the Committee to speak to our submission. Dr M G MacAvoy, Chief Executive Officer, Alcohol Advisory Council of New Zealand is the contact person for the Council. He may be contacted at the Council's offices at 36 Customhouse Quay, Wellington, telephone 917-0707 or fax 473 0890.
3. We also ask that the following persons be able to appear in support of this submission:
  - Professor Andrew Hornblow, Chairperson, Alcohol Advisory Council of New Zealand.
  - Dr M G MacAvoy, Chief Executive Officer, Alcohol Advisory Council of New Zealand.
  - Ms Sandra Kirby, Deputy Chief Executive Officer, Alcohol Advisory Council of New Zealand
  - Ms Wendy Moore, Manager Policy, Alcohol Advisory Council of New Zealand of New Zealand
4. The Alcohol Advisory Council of New Zealand (ALAC) is a Crown entity established under the Alcohol Advisory Council Act 1976. The Council's primary function is:

*The promotion of moderation in the use of alcohol and the development and promotion of strategies which will reduce alcohol-related problems for the nation.*
5. The Council comprises eight members appointed by the responsible Minister. The makeup of the Council ensures representation from the public health sector, the general public, and Maori and includes a gender balance. The Council's work is delivered by a Secretariat comprising some 27 people, including staff specialising in public health, public policy, communications, relationship management, marketing and social marketing, community action, information technology, treatment and research.
6. The opinions expressed in this submission are those of the Alcohol Advisory Council and reflect its purpose and function as set out in statute.

### COMMENT

7. The purpose of the Sale of Liquor Act (Youth Harm Reduction) Amendment Bill is to amend the Sale of Liquor Act 1989 to:
  - raise the minimum legal purchase age from 18 to 20 years

- prohibit the supply of alcohol to those under 20 years at private social gatherings by anyone other than parents or guardians
  - deem all bottle store off license premises to be restricted or supervised areas
  - remove the need to prove liquor was purchased with the 'intention' of supply to minors while retaining the exemption that allows supply by parents or guardians
  - prohibit broadcast liquor advertising programmes before 10.00pm on any day
  - place the responsibility for regulating broadcast liquor advertising programmes with the Broadcasting Standards Authority and
  - remove jurisdiction for broadcast liquor advertising programmes from the Advertising Standards Authority.
8. ALAC's submission first considers New Zealand's drinking culture and the impact, if any, the Bill will have in terms of changing that drinking culture from one that accepts intoxication as a social norm to one that views intoxication to be as socially unacceptable as drinking and driving.
9. The focus then shifts to addressing the importance of ensuring a clear distinction is made between purchase by minors and supply to minors in terms of the increase in alcohol-related harm incurred by young people between the ages of 12-17.
10. Our submission will then address whether the Bill will contribute to reducing the alcohol-related harm currently suffered by young people, particularly those aged 18-20 years.

## **New Zealand's Drinking Culture<sup>1</sup>**

11. Research in New Zealand shows a culture in which drunkenness is accepted and that drinking large amounts on each drinking occasion is seen as part of being a New Zealander.
12. In 2004, the Government approved increased funding for ALAC to implement a programme aimed at changing New Zealand's culture of drinking from one that accepts, tolerates and, sometimes celebrates drunkenness and intoxication to one that does not. It concentrates on the cause of the harm (drunkenness) rather than the vast range of harms (symptoms) that result from that drunkenness.
13. Since the end of prohibition in New Zealand, those responsible for developing and delivering alcohol policy have traditionally focused on reducing overall population consumption through various policy interventions such as pricing (through excise tax), setting a minimum legal purchase age, limiting access to and the availability of alcohol in communities and the introduction of compulsory breath testing for drivers. Such interventions have been evaluated as being the most effective in reducing alcohol-related harm.<sup>2</sup>
14. Currently New Zealand ranks 24<sup>th</sup> out of 50 countries in alcohol consumption per capita and we are within the WHO guidelines for total consumption. Following a downward trend in consumption during the 80s and early 90s, overall alcohol consumption in New Zealand has remained stable for the past 10 years. Despite this, alcohol-related harm, particularly acute harm through accident and injury, continues to climb and alcohol remains:
  - second only to tobacco as a preventable cause of death and hospitalisation
  - a significant contributor to public disorder, violence and crime and
  - the most common principal drug of concern for which treatment is sought.
15. Why this harm continues to occur and how to reduce it is the challenge and, in ALAC's view, it requires a rethink about the way we reduce alcohol-related harm in an environment not conducive to policy interventions that restrict individual choice, particularly as evidence suggests that people believe others to be much more prone to the various negative [and positive] effects from consuming alcohol, producing a definite self/other discrepancy in expectations about alcohol effects and leading to a public preference for interventions that do not interfere with their own drinking.<sup>3</sup>
16. Further, the Sale of Liquor Act 1989 was introduced for a number of reasons including:
  - to enable deregulation of the industry and increase flexibility in such things as the type of licenses available, hours of trade and numbers and types of licensed premises
  - to remove unnecessary restrictions on the drinking of alcohol

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<sup>1</sup> ALAC defines culture as 'the way we do things around here'.

<sup>2</sup> Babor et al., *Alcohol: No Ordinary Commodity*, 2004

<sup>3</sup> Paglia, A., & Room, R., Expectancies About the Effects of Alcohol on the Self and Others as Determinants of Alcohol Policy Attitudes, *Journal of Applied Social Psychology*, 1999, **29**, 12 pp 2632-2651, 1999

- to make the licensing system simple to understand and easy to administer and
  - to ensure that the liquor laws were capable of effective enforcement.
17. The overall result has been the liberalisation of the environment around the sale and supply of alcohol and a proliferation of liquor outlets – in 1989 there were 1085 licensed premises excluding off-licenses. By 2004, there was a total of 15,475 or one licensed premise per 207 people. This is increasing daily as more and more licensed premises open throughout New Zealand.
18. This liberalisation has developed a system that, in ALAC's view:
- emphasises economic freedom to trade in a legal commodity rather than recognising the social and public health issues that arise as a result of increasingly unrestricted access to and availability of alcohol and
  - does not impose any unnecessary restrictions on the drinking of alcohol (and does not provide any indication as to what might be "necessary restrictions").
19. The minimum legal purchase age does not restrict the drinking of alcohol – it provides a restriction on the age at which people may **purchase** alcohol from a licensed premise not on the age a person may start **drinking** alcohol. This is an important distinction as much of the evidence relied on to promote an increase in the minimum legal purchase age from 18 to 20 years is based on research from the United States where they have a minimum legal drinking age. This important distinction is discussed in more detail later in the submission.
20. In ALAC's view, New Zealand has liquor legislation that:
- is focused on removing restrictions on drinking alcohol
  - emphasises the freedom to trade in a legal commodity and
  - has a minimum legal purchase age that does not restrict drinking by young people but does restrict their ability to purchase alcohol and places where they may drink.
21. Importantly, this liberalising legislation sits within a New Zealand that has a drinking culture that views drunkenness as a social norm and it is within this context that decisions regarding the minimum legal purchase age should be made.

### *Changing the Drinking Culture – why?*

22. Through the 90s and into 2000, public and political concern over youth drinking in New Zealand has increased. In response to these concerns, ALAC developed a new five-year strategy that targeted three key audiences – young people, Māori and Pacific. This was done as these three groups experience a disproportionate amount of alcohol-related harm and are at the greatest risk of incurring that harm.<sup>4</sup>

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<sup>4</sup> Connor, J., Broad, J., Jackson, R., Vander Hoorn, S., Rehm, J., The burden of death, disease and disability due to alcohol in New Zealand, September 2004 [www.alac.org.nz](http://www.alac.org.nz)

23. To inform the development of strategies to address the alcohol-related issues for each group, ALAC completed in-depth research focused on the why, how, when and what of alcohol consumption for these groups. The general tone of the responses from those young people surveyed were:
- there's nothing wrong with drinking lots – everyone does it
  - drinking and drunkenness were all part of the rites of passage in New Zealand
  - it was good fun and
  - adults did it too so why all the hypocrisy.
24. A decision was made to carry out further research to test the hypothesis that young people and adults were thinking and doing exactly the same when it came to drinking. This research looked at why people drank and also what stopped them from drinking, attitudes to drinking and drunkenness and their behaviour when drinking.
25. That research led to two conclusions:
- that adults model and create a drinking culture in New Zealand that supports intoxication as a social norm and
  - that it was the pattern of heavy per occasion consumption drinking that was causing most of the harm and needed to be addressed.
26. What is more, these attitudes and behaviours go across all demographic groups. The goal for ALAC in meeting its statutory goal (and enabled by government and a range of stakeholders) therefore became creating a New Zealand drinking culture in which it is never OK to get drunk.

### *The legal minimum purchase age and culture*

27. It is vital that, before considering what approach to take to reduce the number of young people drinking, we understand the context in which this drinking is taking place. First and foremost, we should remember that not all young people under the minimum legal purchase age drink. Currently approximately 52 per cent of 12-17 year olds state that they drink. Of those drinkers:
- 14 per cent drink only a few times a year, at home and mainly with their parents/whānau
  - 22 per cent drink regularly (at least once every two weeks) and binge with friends during weekends and holidays for the social benefits of comradeship, sense of belonging, confidence and so on
  - 14 per cent drink at least once a week, are more likely to be male and frequently drink to get drunk.<sup>5</sup>
28. Identifying the problem we are seeking to address through making an amendment to the minimum legal purchase age such as the one proposed in the Sale of Liquor Act (Youth Harm Reduction) Bill is essential. Some of the questions that ALAC has considered are:

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<sup>5</sup> BRC Marketing and Social Research, The Way We Drink, The current attitudes and behaviours of New Zealanders (aged 12 plus) towards drinking alcohol, March 2004

- Is it that young people under the minimum legal purchase age should not be drinking at all or is it that young people under a certain age are prevented from purchasing alcohol and others, with the exception of parents, from supplying them? and
  - Do we have a minimum legal purchase age to address excessive drinking by those not reaching the age threshold to purchase or do we have a minimum legal purchase age to delay the onset of use *per se*?
29. In ALAC's view the current law, the Sale of Liquor Act, is focused on preventing purchase and/or supply rather than preventing young people from drinking *per se* otherwise New Zealand would have a minimum legal drinking age.
30. If the purpose of a minimum legal purchase age was to delay the onset of use then the optimal approach would be a law prohibiting drinking by certain classes of people and one of those classes of people would be people under 20 years of age. This law would also prohibit the supply of alcohol to those less than 20 years of age by anyone, including parents. This is the approach used in the United States.
31. However, it is important to place young people's drinking, especially those under the minimum legal purchase age, in a context from which you can derive a framework in which to address it. Understanding what encourages underage *excessive* drinking, what maintains it and what the facilitators and the inhibitors are, are all essential factors to determine before embarking on any strategies to address the issue.
32. If one accepts that alcohol has a place in western society (as New Zealand's Sale of Liquor Act does and the 83 per cent of New Zealanders that drink do) and that moderate use of alcohol is a desirable part of a healthy lifestyle, then how do we fashion our legislation to achieve moderate use by not only the whole population of drinkers but especially by those young people who choose to drink?
33. The influence of cultural factors on underage *excessive* drinking is, in ALAC's view, different from the influence of enforcement (or lack of) of the "rules" on purchase by and supply of alcohol to those under the minimum legal purchase age. The following statements serve to illustrate the kind of analytical approach ALAC is suggesting:
- New Zealand's drinking culture accepts drunkenness as a social norm.
  - this culture provides tacit approval of purchase and supply by those under the minimum legal purchase age. Parents and other adults manifest this tacit approval by supplying alcohol to minors. Parents legally supply sixty-seven per cent<sup>6</sup> of alcohol used by those under the minimum legal purchase age.
  - the regulations on underage purchase and supply are not sufficiently enforced or understood. This lack of enforcement reinforces the tacit approval of underage purchase and supply and is manifested both by supply by other (unrelated) adults and licensed

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<sup>6</sup> n 3 above

premises selling alcohol. Forty seven per cent of young people who purchased alcohol from off-licences were under the minimum legal purchase age.

- because New Zealand's drinking culture accepts drunkenness as a social norm, the harms that arise from underage drinking are to an extent accepted and then minimised by anecdotes and jokes that become part of the drinking culture such as "I did that when I was young and nothing happened to me" comments. This provides young people with their "place", so to speak, in the drinking culture. Their place is the "underage drinking" part of that culture.
34. In ALAC's view, what is required is a culture change around the way we drink alcohol in New Zealand. We define culture as "the way we do things around here". The strategies to achieve culture change will differ for different groups of the population by ethnicity, gender, age and by other demographics. One size will not fit all.
35. Changing culture requires sustained effort and time – the social shift in opinion on drinking and driving is a perfect illustration of what can be achieved. Fundamentally, what needs to change are the drinking patterns that are associated with an increased risk of harm.
36. All of the above will impact both on how we choose to address alcohol consumption by those under the minimum legal purchase age and where we set the minimum legal purchase age, assuming that New Zealand does not wish to move towards a legal minimum drinking age.

## **Reducing alcohol-related harm for young people and a minimum legal purchase age**

### *Current situation in New Zealand and the "drinking age"*

37. Contrary to popular belief New Zealand does not have a "drinking age"; we have a legal minimum purchase age for the purchase of alcohol. There is a further restriction –the Summary Offences Act (1981) that prohibits those under 18 years drinking in public places<sup>7</sup>. In summary – in New Zealand young people – those under the age of 18 – can drink alcohol – in a private premise and provided an adult purchased it at a much earlier time.<sup>8</sup> What is prohibited for young people is the sale of alcohol from any licensed premise, or any drinking in public places.

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<sup>7</sup> S. 38 Summary Offences Act (1981) sets a maximum \$300 fine for possession and/or consumption of alcohol

<sup>8</sup> Although it is an offence under S. 160 of the Sale of Liquor Act to purchase alcohol premises with the intention of supplying the liquor, or any of it, to any person under the age of 18 years in practice this Section is difficult to enforce – because of the need to prove intent to supply a minor at the time of purchase.

38. A summary of what the New Zealand law allows:<sup>9</sup>

WHAT IS NOT PERMITTED	WHAT IS PERMITTED
<ol style="list-style-type: none"> <li>1. No one can sell alcohol without a licence.</li> <li>2. No one can sell alcohol to someone under 18.</li> <li>3. No one can buy alcohol if they are under 18.</li> <li>4. A person under 18 cannot drink alcohol in a public place.</li> <li>5. A person under 18 cannot go into a supervised area (most bars) unless they are with their parent or legal guardian.</li> </ol>	<ol style="list-style-type: none"> <li>1. A parent or legal guardian can supply alcohol to their child(ren).</li> <li>2. Alcohol can be supplied to someone under 18 at a <b>private</b> party.</li> <li>3. A person under 18 can drink alcohol at a private social gathering.</li> <li>4. A person under 18 can drink alcohol at a licensed premises if: the licence is not being used at the time; no alcohol is being sold; the premises does not have an age designation; the venue is being hired out for a private function or if alcohol is purchased by a person's parent or legal guardian.</li> </ol>

39. This is quite different to the situation in the United States (US) where they have a minimum legal drinking age that means that no one under a specified age (this varies from state to state but is generally 20) can either drink or purchase alcohol. This approach enables law enforcement agencies to prosecute anyone who supplies a minor with alcohol, including parents, whether they consume it or not. It also means that it is difficult, although not impossible, to draw comparisons between the approach taken in the US and that taken in New Zealand.

40. Therefore, use of the term “drinking age” in the explanatory note to the Bill is not correct. The correct term is “purchase age” unless the Bill contemplates moving New Zealand towards a legal drinking age. The move to prohibit the supply of alcohol to those under 20 years at private social gatherings and to remove the requirement to prove ‘intent’ to supply a minor partially does this and is discussed later in the submission.

#### *Minimum legal purchase age*

41. The establishment of a minimum legal purchase age is an internationally accepted strategy and results in declines in alcohol consumption by young people in the relevant age group.<sup>10 11</sup> Subsequent reviews (e.g. in the US, Canada and Denmark) and comparisons between European countries and the United States also provide evidence for this pattern.<sup>12 13 14 15 16 17</sup>

<sup>9</sup> ALAC (2002) Planning Parties: A Resource For Those Working With Students Organising Safe Afterball Parties, ALAC Occasional Publication: No. 15

<sup>10</sup> Shults RA, Elder RW, Sleet DA, et al; Task Force on Community Preventive Services. Reviews of evidence regarding interventions to reduce alcohol-impaired driving. Am J Prev Med 2001;21(4 Suppl):66-88.

<sup>11</sup> Wagenaar AC, Toomey TL. Effects of minimum drinking age laws: review and analyses of the literature from 1960 to 2000. J Stud Alcohol Suppl 2002;(14):206-25.

<sup>12</sup> DiNardo J, Lemieux T. Alcohol, marijuana, and American youth: the unintended consequences of government regulation. J Health Econ 2001;20:991-1010.

<sup>13</sup> Centers for Disease Control and Prevention (CDC). Enhanced enforcement of laws to prevent alcohol sales to underage persons – New Hampshire, 1999-2004. MMWR 2004;53:452-4.

42. The evidence in New Zealand, however, suggests that most young people **do not** purchase alcohol themselves.<sup>18</sup> Supply by parents is the most common source of alcohol<sup>19</sup> and is legal, provided it is not consumed in a public place. In a survey undertaken in 2000 as part of a community action project<sup>20</sup> 59 per cent of parents agreed to the statement “No one should supply alcohol to someone who is underage” and yet over 36 per cent of the same parents reported they supplied alcohol to their underage children in the past month.
43. Many commentators have also suggested that the lowering of the purchase age has resulted in negative impacts for young people such as increased fatal and non-fatal non-traffic injuries, an increased likelihood of suffering injuries of some sort, an increase in sexually transmitted diseases and an increase in admissions for heavily intoxicated 13-17 year-olds.
44. The Ministry of Justice has reviewed the effects of the 1999 changes using some of the available data.<sup>21</sup> The report concludes; “The statistics presented in this paper show a mixed picture of the possible impact of lowering the drinking age. While the balance is slightly in favour of the indicators that present a picture of the change in legislation having a detrimental effect on young people’s drinking behaviour, for many of the indicators the changes were a continuation of trends established before the law changed.” Of particular interest are the findings that:
- the number of minors on licensed premises had halved and
  - most alcohol obtained by people under the minimum legal purchase age is sourced from parents.
45. Further, more recently evidence has come from the Dunedin Longitudinal Study<sup>22</sup> that suggests that the strong relationship between early onset of drinking and later dependence found by Grant & Dawson<sup>23</sup> may be exaggerated because Grant and Dawson controlled only for age sex and family history and because they relied on retrospective data.

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<sup>14</sup> Wechsler H, Lee JE, Nelson TF, Lee H. Drinking and driving among college students: the influence of alcohol-control policies. *Am J Prev Med* 2003;25:212-8.

<sup>15</sup> Xie X, Mann RE, Smart RG. The direct and indirect relationships between alcohol prevention measures and alcoholic liver cirrhosis mortality. *J Stud Alcohol* 2000;61:499-506.

<sup>16</sup> Grube J. Drinking in the USA and Europe. *The Globe* 2001; 1:11-13.

<sup>17</sup> Babor T, Caetano R, Casswell S, et al. *Alcohol: No ordinary commodity; Research and public policy.* Oxford: Oxford University Press, 2003.

<sup>18</sup> BRC (2003) Youth Drinking Monitor found that 8% of all 14-17 year olds (13% of 14-17 year old current drinkers) claimed to purchase alcohol themselves. Report to ALAC August 2003, available from <http://www.alac.org.nz>

<sup>19</sup> Ibid – 32% of all 14-17 year olds (49% of current drinkers) acquired alcohol from their parents

<sup>20</sup> Kypri K, Dean J, (2002) *The Should You Supply Community Alcohol Intervention: an Evaluation for the Alcohol Advisory Council, ALAC Occasional Publication No 14*

<sup>21</sup> Lash B., (2004) *Young People and Alcohol: Some Statistics to 2002 on Possible Effects of Lowering the Drinking Age.* Ministry of Justice

<sup>22</sup> Wells, J.E., Horwood, L.J., & Fergusson, D.M., Drinking patterns in mid-adolescence and psychosocial outcomes in late adolescence and early adulthood, *Addiction* **99**, 1529-1541, 2004

<sup>23</sup> Grant, B.F., & Dawson, D.A. (1997) Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: results from the National longitudinal Alcohol Epidemiologic Survey *Journal of Substance Abuse* **9**. 103-110

46. The Wells et al study investigated the pattern of drinking in mid-adolescence and subsequent outcomes across major domains of life in late adolescence and early adulthood. The study found that while drinking at age 16 was related specifically to two outcomes – the number of sexual partners and violent offences – it was not related to other outcomes across the domains of substance dependence, mental health, education and employment.
47. The study suggests that drinking at age 16 predicts certain outcomes because of who drinks, what they are like, what else they do and the company they keep rather than because of drinking per se and observes that the extent of drinking in mid-adolescence is not simply an indicator of accelerated development without later consequences. Instead, the pattern of drinking at this age leads on to similar but heavier patterns over the next decade, with associated alcohol outcomes and links to sexual promiscuity and violence.
48. Nonetheless, although mid-adolescence drinking predicts outcomes across a wide range of other domains, this study does suggest that the causal picture is more complex than initially thought and that the associations described in paragraph 47 above arise in part because drinking is embedded in clusters of lifestyles.
49. Therefore, prevention and treatment interventions may need to address these (lifestyle) clusters rather than concentrating on one behaviour (early onset drinking) only. Furthermore, the study suggests, that as these lifestyles are influenced by both family background and problem behaviours this suggests the need for some interventions long before adolescence.<sup>24</sup>
50. Other studies also provide reason to rethink the theory around early onset of drinking and later dependence. Several studies have shown that disturbances in the parent-child relationship in childhood are related to patterns of alcohol abuse in adolescence and young adulthood.<sup>25</sup> Others have shown that alcohol dependence in young adults was preceded by higher persisting teenage rates of frequent drinking, binge drinking and anti-social behaviour.<sup>26</sup>
51. In one study teenage drinking patterns and other health risk behaviours in adolescence predicted alcohol dependence in adulthood but not drinking on its own. This study concluded that prevention and early intervention initiatives to reduce longer-term alcohol-related harm therefore needed to address the factors, including alcohol supply, that influence teenage consumption and in particular high-risk drinking patterns.<sup>27</sup>
52. Monshouwer et al found that early onset of alcohol use was associated with sociodemographic variables, other 'problem behaviours' like truancy and the drinking behaviour of peers and parents. Respondents with parents who discourage or forbade alcohol use were at lower risk of

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<sup>24</sup> n 6 above

<sup>25</sup> Engels, R.C.M.E., Vermulst, A.A., Dubas, J.S., Bot, S.M., Gerris, J., Long-Term Effects of Family Functioning and Child Characteristics on Problem Drinking in Young Adulthood, *European Addiction Research*, Volume 11, Number 1, 2005

<sup>26</sup> Bonomo, Y.A., Bowes, G., Coffey, C., Carlin, J.B., Patton, G.C., Research report: Teenage drinking and the onset of alcohol dependence: a cohort study over seven years, *Addiction* (after Jan 1, 2002), Volume 99, Number 12, December 2004

<sup>27</sup> n 24 above

early onset of alcohol use.<sup>28</sup> Another study found that in adults, age of first drink is not specifically associated with alcoholism but rather is correlated with a broad range of indicators of disinhibited behaviour and psychopathology. Moreover, individuals who first drink at a relatively early age manifest elevated rates of disinhibitory behaviour and psychopathology before they first try alcohol. The study concluded that whether an early age of first drink directly influences risk of adult alcoholism remains unclear.<sup>29</sup>

53. The focus becomes sharper if we look at New Zealand's general acceptance that alcohol has a place in our society (although there are some New Zealanders that would support far greater restrictions perhaps even prohibition) and that moderate use of alcohol is a desirable part of a healthy lifestyle.
54. In summary, the key messages are that:
- the majority of alcohol obtained by young people under the minimum legal purchase age is obtained from parents and/or siblings and friends who are over the minimum age – supply is a key issue for early onset drinking and the majority of 12-17 year olds that drink have been supplied with alcohol by parents/guardians
  - off-licence bottle stores are the most likely place of purchase where the young person purchases themselves – ID is not requested
  - with the exception of the number of sexual partners and violent offending, there is an unclear causal relationship between drinking at age 16 and outcomes across the domains of substance dependence, mental health, education and employment
  - associations between drinking at age 16 and outcomes across the domains of substance dependence, mental health, education and employment are not causal but arise in part because drinking is embedded in clusters of lifestyles.
  - prevention and treatment interventions may need to address these (lifestyle) clusters rather than concentrating on one behaviour only.
  - lifestyles are influenced by both family background and problem behaviours suggesting the need for some interventions long before adolescence.
55. Taken in the context of ALAC's own work on how New Zealanders are drinking (the drinking culture) and the influence culture has on the way young people drink, this suggests that it is unlikely that increasing the minimum legal purchase age to 20 will:
- prevent young people under the minimum legal purchase age from obtaining alcohol – parents are the main suppliers
  - improve the likelihood of off-licence bottle store managers asking for ID before selling
  - influence outcomes for those drinking at age 16 across the domains of substance dependence, mental health, education and employment
  - encourage the development and delivery of prevention activity and treatment interventions

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<sup>28</sup> Monshouwer, K., Smit, F., de Zwart, W.M., Spruit, I., van Ameijden, E.J.C., Progress from a first drink to first intoxication: age of onset, time-windows and risk factors in a Dutch national

<sup>29</sup> McGue, M., Iacono, W.G., Legrand, L.N., Malone, S., and Elkins, I., Origins and consequences of age at first drink, *Alcohol Clin Exp Res.* Aug;25(8): 1156-65, 2001

- change embedded lifestyle clusters and associated behaviours and outcomes.
56. Approximately six out of 10 student drinkers say they have easy access to alcohol at home. Fifteen percent of current drinkers buy alcohol for themselves and the most common place for students to buy their own alcohol was the bottle store.<sup>30</sup> In ALAC's view, it is likely that those in the 18-20 age range will continue to be supplied by both parents and friends over the age of twenty while the biggest decrease in access will be for the 14-17 year old age group.
57. ALAC stresses that simply increasing the minimum legal purchase age is not the 'silver bullet'. It is essential that New Zealand change its drinking culture – continuing on the path New Zealand is currently on is not an option in terms of the social and economic costs<sup>31</sup> associated with the drinking culture. A sharper focus on supply of alcohol to minors is required, as well as a concerted effort to encourage all adults to encourage moderate drinking behaviours in young people by consistent supervision of young people when they drink and the modeling of moderate drinking.

### *The Precautionary Principle*

58. The application of this principle is a policy approach which states that a lack of full scientific evidence should not prevent the decision-maker from acting when there is a strong perception of a potential risk for the consumer, the public or the environment.<sup>32</sup> Two conditions are necessary for the implementation of the Precautionary Principle:
- the identification of a potentially negative effect resulting from a phenomenon, a product or a process, and
  - the impossibility to fully assess the risk because of the lack of data and/or their inconclusive or imprecise nature.<sup>33</sup>
59. While the Ministry of Justice report shows a mixed picture of the impact of lowering the purchase age, it does nevertheless report negative effects for some young drinkers, both the 12-17 drinkers and those over the minimum legal purchase age in some areas.
60. Further, while some of the more recent research on the impact of early onset drinking suggests that prevention and treatment interventions should focus on lifestyle clusters rather than focusing exclusively on preventing early onset of drinking, clear linkages were found related specifically to two outcomes – the number of sexual partners and violent offences.

### *Conclusion*

61. ALAC views the Bill as an ideal opportunity to revisit the decision to reduce the minimum legal purchase age to 18 years. In light of evidence that harms incurred by those aged 12-20 have

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<sup>30</sup> Adolescent Health Research Group. Alcohol and New Zealand Youth: A snapshot of young people's experiences with alcohol, The University of Auckland; 2004 and [www.youth2000.ac.nz](http://www.youth2000.ac.nz) or [www.alac.org.nz](http://www.alac.org.nz)

<sup>31</sup> Easton, B., Taxing Harm: Modernising Alcohol Excise Duties, [www.alac.org.nz](http://www.alac.org.nz) 2002.

<sup>32</sup> Henri Belveze, Directorate-General, Health and Consumer Protection, European Commission, Brussels, Address to the European Commission 26 February 2003, [http://europa.eu.int/comm/index\\_en.htm](http://europa.eu.int/comm/index_en.htm)

<sup>33</sup> *ibid.*

increased and applying the precautionary principle, ALAC agrees that increasing the minimum legal purchase age to 20 years will effectively reduce some of the harm that is occurring and, hopefully, indicate to those parents already supplying their underage young people that this is not acceptable practice.

*Prohibit the supply of alcohol to those under 20 years at private social gatherings*

62. Repealing section 160(3)(d) from the principal Act effectively moves New Zealand closer to having a legal minimum drinking age in that it means that only parents and/or guardians will be able to supply alcohol at a private social gathering. This is a substantive change to current social practice in New Zealand. Again, in this context, it is important to recall that parents are the main suppliers of those under the legal minimum purchase age.

63. In ALAC's view there are three issues with the repeal of section 160(3)(d) that should be clarified, if necessary by the addition of other clauses, should the Bill move forward to the next stage of the legislative process. These are:

- it may be difficult to prove that the person "in charge" of the private social function did actually supply
- the amendment implies that the person "in charge" has a wider duty than that of simply not supplying. In addition, that person must ensure that no one at the private social function supplies. Not only is this onerous for the person "in charge" but it could also lead to difficulties in the prosecution process for both the Police and the Courts in terms of evidential proof of supply
- potential 'inequities' in enforcement as enforcement agencies target 'problem' suburbs/events while ignoring other potentially harmful supply situations and
- there may be in loco parentis issues – a person in charge of a private social function could claim that they are acting "in the place of a parent" and produce evidence to prove this such as a note from the parent giving permission for that supply.

64. While endorsing the concern around supply inherent in this clause, ALAC cannot support this clause of the Bill as it stands without further work being done to address the issues outlined above.

*Deem all bottle store off licence premises to be restricted or supervised areas*

65. The Bill proposes making all bottle store off licence premises restricted **or** supervised areas. Under the Sale of Liquor Act 1989:

- a "restricted area", in relation to any licensed premises, means any part of those premises so designated by the Licensing Authority or the District Licensing Agency to which persons who are under the age of [18] years shall not be admitted.
- a "supervised area", in relation to any licensed premises, means any part of those premises so designated by the Licensing Authority or the District Licensing Agency to which a person under the age of 18 years may not be admitted unless accompanied by the person's parent or guardian.

66. ALAC supports this change and would prefer a “restricted” designation as this would ensure that anyone under the legal minimum purchase age could not enter an off licence premise. Off licenses appear to be the main retail outlets used by 14-17 year old drinkers and 47% of those purchasing alcohol themselves report that they are *hardly ever* or *never* asked for age verification documents. ALAC strongly recommended that off-license premises should be designated restricted or supervised areas in its 1998 submission to the Justice & Law Reform Committee on the Sale of Liquor Amendment Bill No 2.<sup>34</sup>

#### *Amendment of section 160(1) of the principal Act*

67. This amendment removes the need to prove intent to supply minors from section 160(1) of the Sale of Liquor Act. The amendment bill would also need to amend section 160(4) to remove the defence available to a person who has purchased or acquired liquor for any other person who then supplies it to a third person who is under the age of 20 years. Currently a person in this situation has a defence if they can prove that they did not know or did not have reasonable grounds to believe that the liquor was intended for that other person (who is under the age of 20 years).
68. It would not be useful to remove the concept of intent to supply from section 160(1) without removing the defence that there was no intent to supply – section 160(4).
69. There are difficulties with removing this defence because it changes the offence to a strict liability offence – that is, if a person purchases or acquires liquor passes it to another person who then passes it on to someone under the minimum legal purchase age you are automatically guilty of purchasing liquor for minors.
70. There will be situations where a person who purchases or acquires liquor for another person who is over the minimum legal purchase age genuinely does not know or even suspect that the liquor will then be passed on to someone under the minimum legal purchase age.
71. This amendment will result in the criminalisation of people who, through no deliberate act of their own, will be held legally responsible for purchasing liquor for a minor. ALAC’s view is that such a change has the potential to create more problems than it will solve.

#### *Restriction on broadcast advertising of alcohol*

72. The issue of advertising has not received as much public coverage as the issue of age however there is strong support for restricting the broadcast advertising of alcohol from public health groups. The evidence regarding the impact of marketing on consumption is not clear. There is, however, growing evidence that marketing does influence drinking behaviour and culture.

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<sup>34</sup> Alcohol Advisory Council of New Zealand (1999). Submission to the Justice & Law Reform Select Committee on the Sale of Liquor Amendment Bill (No 2). Wellington: Alcohol Advisory Council of New Zealand.

73. In a recent decision, the Ministerial Committee on Drug Policy agreed to a recommendation that there be a government-led review of the current approach to regulating the promotion of alcohol and that this review be led by officials.
74. ALAC's view is that this process should be allowed to continue. We hold this view because:
- a process for reviewing the current approach to regulating alcohol promotion has started and
  - current regulation focuses almost entirely on broadcast advertising whereas evidence indicates that there is a move away from 'traditional' forms of advertising to other marketing strategies such as the Internet, using cell phone technology, billboards and ambient or below-the-line marketing techniques. The current regime, in our view, cannot adequately deal with these different approaches.
75. Further, ALAC doubts the suitability of considering alcohol promotion as part of an amendment to the Sale of Liquor Act.

#### *Identification Cards*

76. ALAC considers enforcement to be vital to the effectiveness of the Sale of Liquor Act and as part of this an acceptable, tamper-proof, photographic identification system needs to be available. The concept of "No Proof, No Purchase" is an essential element in enforcement.
77. ALAC's view is that a move towards an acceptable, tamper-proof, photographic identification system is comparable to a similar move in sections 301-303 of the Gambling Act 2003. These sections place an onus on the proprietor and/or operator of a venue to sight evidence of age documents.
78. Introducing a nationally recognised and tamper-proof system of age identification would help bar staff identify underage drinkers, assist legal drinkers of youthful appearance to be served, help the Police enforce the Sale of Liquor Act, and assist in the prosecution of licensees and bar staff providing minors with alcohol.
79. ALAC recommends that any document prescribed must be tamper proof and that at the time a person applies for an identity card, the age of the person listed on the document should be vetted to discourage misrepresentation, and the penalties for misrepresentation should be clearly stated on the application form.
80. The general principles for a proof of age system are:
- the information provided should prove both identity and age.
  - the information provided should be verifiable.
  - the card should be able to be used in other areas than the one where it was issued.
  - the card should be as tamper-proof as possible.
  - the card should include the person's photograph, date of birth and ideally their signature.

- the system should be as simple as possible whilst still achieving the other requirements listed above.
  - to be effective a proof-of-age system must have the full support and confidence of the relevant statutory agencies and the hospitality industry. This should be achieved early in the process of establishing a proof of age system in an area.
81. ALAC continues to recommend an increased commitment by licensees/staff and enforcement agencies to a “**no proof, no purchase**” policy. Such an approach would require removal of the “safe haven” defence. In other words, it should be compulsory for those who own or are responsible for running any licensed premise to ask for identification. Sighting of identification would then become a positive defence when rebutting a charge of supplying alcohol to a minor.

### *Conclusion*

82. The main focus of this submission is the legal minimum purchase age. In ALAC’s view increasing the minimum legal purchase age could be useful in terms of culture change if it is accompanied by a general tightening of the rules around availability of and access to alcohol. The Sale of Liquor Act places few controls on the availability of and access to alcohol. This in itself implies a liberal attitude towards the consumption of alcohol and this liberal attitude, one could say, is reflected in New Zealand’s acceptance of drunkenness as a social norm.
83. ALAC would prefer to see greater restrictions on the availability of alcohol in general and recommends that consideration is given to amending the Sale of Liquor Act (Youth Harm Reduction) Bill to require local territorial authorities to consider the social, cultural and environmental impact of licensed premises prior to approving the establishment of these premises.
84. Unless the issue of open-ended availability is dealt with alongside the issue of illegal supply to and purchase by those under the minimum legal purchase age, then little will change in terms of the alcohol-related harm incurred by all New Zealanders – not just those under the minimum legal purchase age.
85. Further, adult New Zealanders may be tempted to consider that the issue of high risk per occasion consumption has been dealt with simply by increasing the minimum legal purchase age. This enables adult New Zealanders to ignore their own attitudes to and behaviours with alcohol reinforcing the belief that only young people have an issue.
86. As long as New Zealand maintains a relatively “free market” approach to the sale and supply of alcohol then tightening the rules around access by some people (those under the age of 20 years) will have only a minor influence on drinking culture.
87. It is more likely that increasing the minimum legal purchase age and not tightening the approach to the sale and supply of alcohol will have a negative influence by:
- causing younger drinkers to go “underground”

- encouraging more rapid binge drinking for “fear of being caught” reasons
  - encouraging more adults/parents to start supplying or continue to supply because they view the age restriction as onerous or unfair and
  - increasing the likelihood of negative statistics for those involved.
88. In light of the above discussion, ALAC’s initial view is that the Bill provides only part of the solution and that what is required is an analysis of a range of policy interventions designed to address the culture and support culture change. Such a package might include dealing with the issues of price<sup>35</sup>, access and availability, promotion and supply to those under the minimum legal purchase age. Some aspects of this will need further analysis, particularly from the perspective of whether or not an intervention will support culture change.
89. Implementation of such a package in one move would send the strongest signal possible to New Zealanders that intoxication and the alcohol-related harm associated with it is unacceptable and will not be tolerated by Government.
90. The Bill is an ideal opportunity to revisit the decision to reduce the minimum legal purchase age to 18 years and, in light of evidence that some harms for those aged 12-20 have increased, ALAC agrees that increasing the minimum legal purchase age to 20 years will effectively reduce some of the harm that is occurring and, hopefully, indicate to those parents already supplying their underage young people that this is not acceptable practice.
91. ALAC stresses however, that simply increasing the minimum legal purchase age is not the ‘silver bullet’. It is essential that New Zealand’s drinking culture change – continuing on the path New Zealand is currently on is not an option in terms of the social and economic costs<sup>36</sup> associated with the drinking culture. A sharper focus on supply of alcohol to minors is required, as well as a concerted effort to persuade all adults to encourage moderate drinking behaviours in young people by consistent supervision of young people when they drink and the modeling of moderate drinking behaviour.

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<sup>35</sup> An example of the effectiveness of price in reducing young people’s alcohol consumption is the increase of excise tax on the so-called ‘light spirits’ or 23%abv spirits. A 1125ml bottle of light spirits costs on average \$8 and \$13 compared with a 1125ml bottle of full spirits (aabv of 37.2%) costing on average \$25 to \$35. In 2003 there were several incidents where young people who had consumed large amounts of light spirits dying as a result of either alcohol poisoning or other accidental injury. Research confirms that increasing the cost of alcohol is most likely to:

- decrease teenage consumption (New Zealand, as with other developed countries, is currently faced with the growing problem of teenage misuse of alcohol) and
- decrease the purchase of additional drinks per drinking session for teenagers as well as some other drinkers.

<sup>36</sup> Easton, B., Taxing Harm: Modernising Alcohol Excise Duties, [www.alac.org.nz](http://www.alac.org.nz) 2002.