

Auckland Regional Public Health Service

Rātonga Hauora ā Iwi o Tamaki Makaurau



Working with the people of Auckland, Counties Manukau and Waitemata

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**Clek of Committee – Justice and Electoral Secretariat
Select Committee Office
Room 9.11
Office of the House of Representatives
Bowen House
Wellington**

Submission on the Sale and Supply of Liquor and Liquor Enforcement Bill

1. Thank you for the opportunity for the Auckland Regional Public Health Service (ARPHS) to provide a submission to the Sale and Supply of Liquor and Liquor Enforcement Bill 2008. ARPHS would like to be heard at any submissions hearing.
2. The following submission represents the views of the Auckland Regional Public Health Service and does not necessarily reflect the views of the three District Health Boards. Please refer to Appendix 1 for more information on ARPHS.
3. ARPHS understands that all submissions are subject to the Standing Orders of the House of Representatives and may be made available to the public.
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1.0 ARPHS AND ALCOHOL-RELATED HARM

5. Alcohol is an addictive substance with significant negative personal, social and economic costs. The Alcohol Advisory Council emphasises the importance of both the pattern of drinking and the volume of alcohol consumed, as a major determinant of the health in a population.¹ Addressing alcohol-related harm would not only bring benefit to individuals, families and communities, but also to sectors such as Education, Police, Justice, and Health.
6. Alcohol has a significant impact on perpetuating health inequalities in already disadvantaged populations. Alcohol is estimated to be responsible for around 1,040 deaths each year², with rates highest among the young, male and Māori populations. Pacific drinkers consume larger annual volumes of absolute alcohol than drinkers in the general New Zealand population, which increases the risk of acute health effects such as violence.³
7. ARPHS fully supports the objectives of the Sale and Supply of Liquor and Liquor Enforcement Bill 2008 (the Bill) in the reduction of alcohol related harm and increasing community input into liquor licensing decisions.
8. ARPHS has several recommendations relating to off licenses, local alcohol plans, management of licensed premises, alcohol advertising and promotion, evidence of age requirements and blood alcohol limits. Finally ARPHS raises other issues linked to alcohol related harm that are not directly addressed by the Bill.

2.0 SPECIFIC COMMENTS ON THE SALE AND SUPPLY OF LIQUOR AND LIQUOR ENFORCEMENT BILL

Clauses 14 to 22 - Off-licences

9. The intent of the introduction of the Sale of Liquor Act 1989 (the Act) was not to allow dairies or superettes to open as licensed premises. ARPHS strongly supports the restriction on types of premises which may be granted an off-licence as we do not wish to see a proliferation of outlets resulting in an increase in alcohol-related harm in communities.
10. ARPHS further proposes that only supermarkets and liquor specialists should be able to sell liquor. Lowering the overall density of liquor outlets is likely to reduce violence but should also result in a reduction of sales to minors, given that grocery stores have higher rates of sales to minors. The 2003 Auckland Pseudo-patrons Study⁴ found that 18-year olds were able to purchase alcohol without ID from 71% of visits to grocery outlets, 43% of bottle shops and 28% of visits to supermarkets (Figure 1).

Proportion of sales made in the Auckland region without ID by premise type

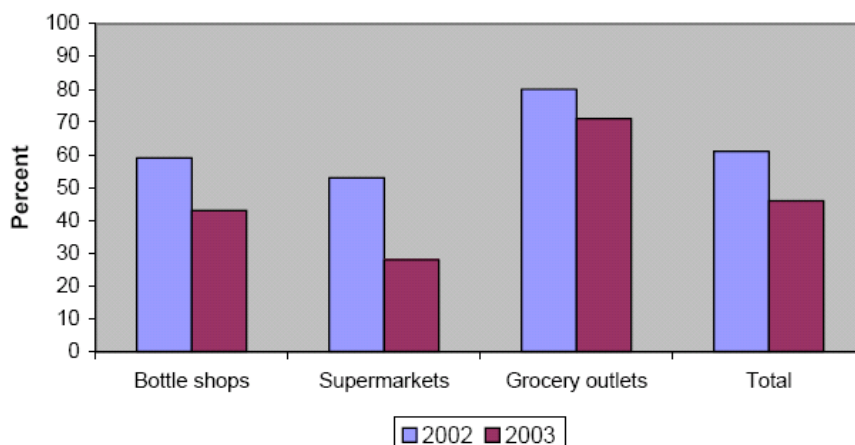


Figure One. Proportions of sales made to minors in the Auckland region without ID by premise type. Source: Huckle, T., Pledger, M. & Casswell, S. (2003). *The Auckland Pseudo Patrons Project 2003*. Centre for Social and Health Outcomes Research and Evaluation. Massey University.

RECOMMENDATIONS – CLAUSES 14-22

- ARPHS supports the restriction on outlets >150m² which may be granted an off-licence
- APRHS recommends that alcohol should be strictly permitted in supermarkets and liquor specialists only

Clause 37 – Local Alcohol Plans

11. The current legislation limits communities the opportunity to voice their opinions on or oppose liquor license applications in their neighbourhoods. The imposition of conditions on individual licenses is insufficient to address community-wide issues. ARPHS therefore strongly supports the development of local alcohol plans by local government to enable communities and individuals to participate in decisions which impact on them.
12. An increasing number of councils are acknowledging their responsibility to address concerns within their communities about harm caused by alcohol. To date, alcohol strategies and policies have been developed by a number of councils throughout New Zealand.
13. ARPHS recommends that any local alcohol plan should be comprehensive, encompassing a range of strategies and policies which address alcohol-related harm. A Liquor Licensing Policy may be just one example of a policy which could be included in a local alcohol plan.
14. In order to tackle inequalities, local alcohol plans should include strategies that target those populations most at risk of hazardous alcohol consumption: young males, young females, Pacific and Maori people.^{2,3}

15. It would be envisaged that a local alcohol plan would be developed to address alcohol harm reduction across the entire area of a Territorial Local Authority (TLA). However, as needs differ across communities and neighbourhoods the plan would need to have flexibility to accommodate these different needs. Completion of a social impact assessment would strongly inform the local alcohol plan, incorporating the likely differential impact of alcohol across communities. For example, a social impact assessment may point to different needs between rural and urban communities, which would need to be integrated within an alcohol plan. Ideally, the social impact assessment would be reviewed every 3 years. There is also a need for sufficient resources to enable the coordination of the District Licensing Authority to work together with Police and Medical Officers of Health in producing an effective assessment tool.
16. ARPHS does not recommend the completion of a social impact report for each license application and renewal, as indicated in the proposed Section 84B(g) of Clause 37 of the Bill. Rather, an area-wide assessment as described above, should underpin the development of a local alcohol plan.
17. ARPHS is concerned about the current position of the Bill which allows Councils to voluntarily decide upon developing a local alcohol plan or not. The purpose of the Bill which is set out to “*increase community input into licensing decisions*” will not be achieved should the status quo remain.
18. ARPHS recommends that the development of local alcohol plans be mandatory for Councils. This requirement is consistent with other legislation which requires Councils to develop local plans. For example, the Gambling Act 2003 and Racing Act 2003 mandate the compulsory development of a gaming venue policy which must specify density and location of gaming venues.
19. Given that the development of local plans is time-consuming, the inclusion of a transition period within the Bill would be necessary to allow Councils to develop and implement their local alcohol plans.
20. It is likely that the quality of local alcohol plans may vary between councils. Achievement of the purposes of the Bill is contingent on the development of a high quality local alcohol plan. A quality local alcohol plan would have the following features:
 - be underpinned by a thorough social and health impact assessment;
 - be all-encompassing and not just a plan relating to liquor licensing;
 - have standing with the Liquor Licensing Authority;
 - impose conditions on licensed premises;
 - be reviewed every 3 years; and
 - be developed by the District Licensing Authority, in collaboration with regulatory partners including Public Health (given the significant public health impact resulting from alcohol use), Police and Mana Whenua.
21. ARPHS is supportive of Clause 37 of the Bill and the proposed Section 84B which outlines the requirements that may be included in a local alcohol plan. ARPHS recommends that the local alcohol plan must, at a minimum, cover the following matters:

A. Hours during which liquor may be sold

Evidence confirms that extensions of trading hours are associated with late night/early morning violence, blood alcohol concentrations and drink driving crashes.^{5,6,7}

APRHS recommends that local alcohol plans restrict late night trading and prohibit 24-hour licences.

B. Location of outlets or 'buffer zones'

There is an ever-growing evidence base to support a positive association between alcohol use and related problems and increased availability of on- and off-licensed premises near youth venues such as schools and universities.^{8,9,10} A New Zealand study¹¹ showed that alcohol problems were greatest when alcohol outlet density was high within a 1km radius from the Otago University campus.

Location of alcohol outlets in neighbourhoods where young people study or live may present a number of problems¹²:

- increased accessibility to alcohol which has the potential to increase problematic drinking;
- increased risk of selling alcohol to minors;
- normalises the social environment of alcohol drinking which may endorse drinking; and
- forms clusters of young males which may perpetuate violence.

Prior to the Act, liquor outlets were prohibited in close proximity to schools or churches.

ARPHS suggests a return to restrictions on location included in all local alcohol plans, similar to that imposed in the Manukau City Council Alcohol Strategy, which prohibits new licensed premises within close proximity of a primary, intermediate or secondary school.

ARPHS proposes restrictions of outlets within 500 metres of the following locations:

- Schools;
- Kura kaupapa
- Preschools;
- Kohanga reo
- Churches;
- Marae; and
- Parks.

C. Maximum density of outlets

International evidence confirms that a high density of alcohol outlets correlates with increased alcohol-related harm, for teenagers, university students and the general population.^{13,14,15,16}

Density of alcohol outlets has been related to decreases in social capital¹⁷, increased violence and assault^{10,11}, violent crime¹⁸ and child abuse.¹⁹

Furthermore, lower socioeconomic populations have been shown to have greater access to alcohol and may therefore be more likely to bear the social and health burden associated with alcohol consumption.

Local alcohol plans must address issues of density within their plan, given the vast array of evidence which consistently demonstrates the negative impact of high density of liquor outlets.

D. Provision of substantial food items at on-licensed premises

The Act currently requires on-licenses to sell and supply food. The Empire Hotel Petone Limited Liquor Licensing Authority decision²⁰ in November 2008 introduced minimum food standards which we believe should be adopted in all Council local alcohol plans.

- The range of food must be readily available at all times that the premises are open.
- Menus must be highly visible and food should be actively promoted using a variety of mediums, e.g. menus on the tables, a board, and/or food on display. Food should also be advertised in any outdoor areas.
- Bar staff are expected to actively promote the range of food options.
- A minimum of three forms of food should be available. e.g pizzas, lasagne, pies, toasted sandwiches and wedges with a selection of vegetarian and fat free food choices.
- It is acceptable to have a menu from neighbouring premises to provide for one or two of these options, however, there must be a back up option that could be produced on site.
- A minimum standard to be accepted on site would be a microwave or fryer and utensils, and a supply of a variety of 'long life' meals that do not require temperature control, or tins of soup and rolls. There should be an area for preparation of food and utensils for service of the food.

E. Mandatory provision of free water

ARPHS recommends that Councils require on-license premises to supply water free of charge, in order to prevent intoxication.

F. Provision of adequate public notice for all license applications

ARPHS fully supports the need for adequate public notice of all license applications, with applicants contacting the District Licensing Authority to notify the dates and publications of which notice is given.

ARPHS, however, is concerned that the public may not read the local newspapers or visit the venue in order to be fully aware of an impending license application. ARPHS would support direct contact with community members, businesses or community organisations, through flyers or other means of media. For example, at a minimum, licensees should contact Mana Whenua and nearby schools informing them of a licence application.

G. System of recording complaints about licensed premises

ARPHS recommends that Council local alcohol plans require the recording of all complaints relating to licensed premises.

H. Bar management and training

Evidence supports the need for training bar staff to prevent and manage intoxication. A randomised controlled trial²¹ which trained bar staff across University campuses in Sweden found a reduction in both the alcohol levels among the patrons and the 'rowdy' social atmosphere.

Local alcohol plans should include processes to ensure that any staff member who serves alcohol is properly trained. Relying on the duty manager to deliver training is not sufficient.

I. Other issues

Local alcohol plans should also address the implementation of liquor bans, the management of alcohol at public events, and alcohol advertising on council property.

RECOMMENDATIONS – CLAUSE 37

- Local alcohol plans should be mandatory
- Local alcohol plans need to be developed in collaboration with key regulatory partners
- Local alcohol plans should be strongly informed or underpinned by a social impact assessment
- Local alcohol plans must address issues of hours, location, density, bar training, public notice, host responsibility, and systems to record complaints

Clause 38 – Management of Licensed Premises

22. The sale of alcohol to minors is a serious breach of the law and should be treated as such. ARPHS supports the requirements of Clause 38 of the Bill which would cancel a manager's certificate if convictions relating to the sale of liquor to minors occur repeatedly. However, we would like to see the cancellation of the certificate if two adverse findings occurred over a 3 year period. This is due in part to a lack of enforcement resources to detect repeated sales to minors over a short period of time.
23. ARPHS proposes that additional types of adverse findings should contribute towards the cancellation of a bar manager's certificate for on-licensed premises. ARPHS recommends that, in addition to sales to minors, that the following adverse findings be included for on-licenses:
- Intoxication on premises
 - Lack of provision of food.

RECOMMENDATIONS – CLAUSE 38

- ARPHS proposes that a manager's certificate be cancelled if two adverse findings occurred over a period of 3 years
- ARPHS proposes that, for on-licenses, adverse findings also include a lack of provision of food and intoxication of patrons

Clause 39 - Advertising and promotions

24. ARPHS supports a review of the current regulation of alcohol advertising. A 'preponderance of evidence', outlined in the Report of the Steering Group for the Review of the Regulation of Alcohol Advertising²², shows that alcohol advertising is a significant factor in adolescents' use of alcohol. A legislative approach to address and prevent the negative effects of alcohol advertising on young people is supported.
25. The current code for Liquor Advertising is reactive, complaints-based, self-regulated by the advertising industry and does not address the overall exposure of advertising to young people. ARPHS is concerned that Clause 39 of the Bill, which sets forth an enforced self-regulatory body called the Liquor Advertising Advisory Body (LAAB) to

oversee the advertising of alcohol, will continue to be a reactive, complaints-based system and will have no mechanism in place to regulate exposure.

26. The current self-regulatory system depends on the effectiveness of the Liquor Advertising Pre-vetting System to review advertisements before they are produced. However, many liquor advertisements, such as those used by off-license premises, are produced by non-media companies which would bypass the standard pre-vetting process. We therefore believe that an enforced self-regulatory system would not fully address the principles of the Bill to minimise the overall exposure of advertising to young people.
27. In addition, ARPHS recommends that the Director-General of Health should have the powers to issue a cease and desist order immediately, without the written advice of the LAAB.

RECOMMENDATIONS – CLAUSE 39

- ARPHS proposes that the proposal for an enforced self-regulatory system be reconsidered
- ARPHS recommends that the Director General of Health have powers to issue a cease and desist order immediately, without the necessary written advice from the LAAB

Clauses 40 to 44 - Evidence of age requirements

28. In New Zealand one in ten young drinkers under the age of 18 years currently report to purchase alcohol for themselves, with young binge drinkers more likely to report purchasing alcohol than moderate drinkers (15% versus 3% respectively).²³
29. Hence, ARPHS fully supports the provision whereby only evidence of age will be accepted to purchase liquor or enter restricted or supervised areas. ARPHS also supports that the presentation of false identification is an offence or those who sell, hire, lend, give or otherwise dispose of false evidence. We recommend that the Police should have the powers to seize any false identification.
30. ARPHS supports companies such as Progressive Enterprises Ltd which require any person appearing under the age of 25 years to produce evidence of age when attempting to purchase alcohol or enter a restricted licensed premise. Ideally, legislation should be amended to ensure all licensed premises check the age of all persons appearing under the age of 25 years who attempt to purchase alcohol. In January 2005, when the Liquor Licensing Authority (LLA) ruled that the Auckland DLA's policy of ensuring all new and renewed licenses had such a policy of age verification the LLA ruled that it was up to Parliament to make such a decision. We believe it is timely that Government considered such a requirement to ensure that no liquor is sold to minors.
31. Clause 41 of the Bill to minors, relates to the social supply of alcohol. Research shows that although parents remain the most common source of alcohol for young people (62%), older friends aged 18 years and over still constitute an important source (27%).²⁴ Females and binge drinkers are significantly more likely to report that friends over the age of 18 years are a source of alcohol.

32. ARPHS strongly endorses Clause 41 of the Bill. However, we are concerned that it will be difficult to enforce '*expressed or implied consent*' by parents or guardians.
33. ARPHS cautions the effectiveness of Clause 43 of the Bill and the referral of a young person to an early intervention programme as an alternative to paying an infringement fine. An adequate level of appropriate services, which are sufficiently resourced for young people, need to be available. In addition, we would be concerned about resources being used on early intervention programmes for a youth who may not be abusing alcohol.

RECOMMENDATIONS – CLAUSES 40 - 44

- ARPHS supports that only evidence on age constitute reasonable grounds to allow the selling of alcohol to minors or the entrance into restricted or supervised areas
- ARPHS proposes that the Police should have the powers to seize false identification
- ARPHS supports changes to the Act and Summary Offences Act 1981 which would prohibit the supply of alcohol to young people without parental consent
- ARPHS is concerned that expressed or implied consent is difficult to enforce
- ARPHS proposes that referral to an early intervention programme be reconsidered, pending an assessment of the availability of appropriate (and adequately resourced) services for young people

Clauses 57 to 60 - Blood alcohol limits

34. ARPHS supports the amendments of the Land Transport Act 1998 to redefine a positive evidential breath test for young drivers under the age of 20 years who do not hold a full licence. The requirement of a zero breath alcohol concentration (BAC) is in line with international evidence²⁵ and overseas legislation. New Zealand researchers²⁶ have found that a 15-19 year old is 5.3 times more likely to be involved in a fatal car crash with one passenger at 0 BAC and 15 times more likely at 30BAC (30mg per 100ml blood) compared to a sober 30+ year old driver.
35. We propose an extension that all young drivers under the age of 20 years, regardless of licence status, be required to have a zero alcohol BAC.
36. In addition, we propose that all drivers who do not have a full licence be required to have a BAC of zero, which is supported by researchers in Canada.²²
37. For the general population, we also recommend that all other drivers have a BAC of 0.05 (50mg per 100ml blood), which is in line with international evidence.²⁷

RECOMMENDATIONS – CLAUSES 57- 60

- ARPHS supports the amendment that all persons under 20 years of age who do not hold a full licence be required to have a BAC of zero.
- ARPHS would support an additional requirement that all persons under the age of 20 years, regardless of licence status, to have a BAC of zero.
- ARPHS would support a change to require all persons who do not hold a full license to be required to have a BAC of zero.
- ARPHS supports changes to the Act which would reduce the BAC in the general population to 0.05 (50mg per 100ml blood).

Additional issues to be considered

38. In addition to the amendments specified in the Act and the Bill, APRHS recommends that a number of other issues must be addressed in legislation to reduce alcohol-related harm.
39. Tax payers should not be required to contribute towards the costs of liquor licensing. The license fee should be increased to recover costs incurred by the District Licensing Authority (DLA), Medical Officers of Health and Police Units administration during legislation enforcement and regulation. A significant increase in the license fee may also deter many small premises from becoming licensed.
40. The DLA, Police and Medical Officer of Health should have the authority to impose on-the-spot infringement fines where breaches of the Act are evident during premise compliance visits.
41. Currently, the Act requires the Medical Officer of Health to report on all on-licence and club licences. ARPHS recommends that the Medical Officer of Health should be notified of and have the option to report on all licence applications and renewals regardless of licence type (on, club, off and conveyances).
42. Finally ARPHS recommends a review of the legal age to purchase alcohol.

3.0 CONCLUSION

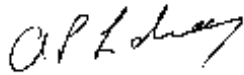
43. ARPHS reaffirms its support of the Bill and the overall aim to address alcohol related harm and involve the community in liquor licensing decisions.
44. ARPHS has made several recommendations and raised related issues for consideration to improve the Bill and increase its potential impact in reducing alcohol related harm.

Thank you for the opportunity to make this submission.

Yours sincerely



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APPENDIX 1 - AUCKLAND REGIONAL PUBLIC HEALTH SERVICE

Auckland Regional Public Health Service (ARPHS) provides public health services for the three district health boards (DHBs) in the Auckland region (Auckland, Counties Manukau and Waitemata District Health Boards), with the primary governance mechanism for the Service resting with Auckland District Health Board.

ARPHS has a statutory obligation under the New Zealand Public Health and Disability Act 2000 to improve, promote and protect the health of people and communities in the Auckland region. The Medical Officer of Health has an enforcement and regulatory role under the Health Act 1956 and other legislative designations to protect the health of the community.

ARPHS' primary role is to improve population health. It actively seeks to influence any initiatives or proposals that may affect population health in the Auckland region to maximise their positive impact and minimise possible negative effects on population health.

The Auckland region faces a number of public health challenges through changing demographics, increasingly diverse communities, increasing incidence of lifestyle-related health conditions such as obesity and type 2 diabetes, outstanding infrastructure needs, the balancing of transport needs, and the reconciliation of urban design and urban intensification issues.

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