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THIS ISSUE

Sale and Supply of Alcohol

 **hpo** health promotion
agency



Message from the **Minister**

Hon Peter Dunne

Associate Minister of Health

The preliminary results from the recent changes to our alcohol laws are extremely promising.

While many criticised the legislation as not going far enough and predicted it would have little effect on the alcohol-related harm in New Zealand, the latest figures from the Minister of Police show serious assaults and public disorder offences have dropped significantly since the changes were enacted.

During the 10 weeks between the final provisions of the Sale and Supply of Alcohol Act 2012 coming into effect on 18 December 2013 and 26 February 2014, there were 1,258 fewer offences between 8pm and 8am, a drop of 22% compared with the same period in the previous year. In central Wellington there was a 31% fall and in central Auckland an 11% decrease.

Communicating significant law changes requires substantial and coordinated efforts to ensure members of the public are not unfairly penalised by lack of knowledge about the law changes. HPA's 'Cool Dad' campaign was one

very successful example of this with benchmark research conducted in November 2012 showing that 40% of adults surveyed were aware that it would soon be a legal requirement to gain parental permission before providing alcohol to a minor. Research conducted in January 2014, after the campaign took place, showed that 75% knew it was now a legal requirement to gain parental permission before providing alcohol to a minor (an increase of 35%).

I would like to thank the many government agencies, such as the Ministry of Justice, New Zealand Police, ACC and the Health Promotion Agency as well as other public sector organisations, in particular territorial authorities and Local Government New Zealand, for the work they have done in assisting with the successful implementation of the new law.

I would also like to acknowledge the work of other organisations, including Hospitality New Zealand and other alcohol retailers, who joined with public sector organisations to work on aspects of the new law, such as the promotions guidelines.

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Welcome to

AlcoholNZ

Welcome to this issue of the Health Promotion Agency's (HPA) *AlcoholNZ* magazine. *AlcoholNZ* provides evidence-based articles, topical commentaries, and summaries of new alcohol-related research and guidelines to update readers' knowledge and inform debate about alcohol issues in New Zealand.

AlcoholNZ contributes to HPA's statutory alcohol-related functions to:

- give advice on the sale, supply, consumption, misuse and harm of alcohol
- undertake, or work with others, to research alcohol use and public attitudes towards alcohol in New Zealand, and problems associated with, or consequent on, the misuse of alcohol.

This issue focuses on the sale and supply of alcohol. The topic is very timely given the Sale and Supply of Alcohol Act 2012, which is currently in the early stages of being implemented. Limiting the physical availability of alcohol through legislation is a very important aspect of the multi-strategy approach needed to reduce alcohol-related harm in New Zealand.

Highlights of this issue include an article on aspects of the new requirements for the social supply of alcohol to minors (young people under 18) and an article on the practice of preloading with alcohol before engaging in the night-time economy. The issue also features short summaries of key aspects of the Act, followed by commentaries from organisations who are involved, in a range of capacities, with implementing the requirements of the new law.



AN OVERVIEW

Sale and Supply of Alcohol Act 2012

Following a review by the Law Commission, the Government enacted the Sale and Supply of Alcohol Act 2012 (the Act) to replace the previous Sale of Liquor Act 1989. Anyone who sells alcohol still needs to have a licence and the purchase age remains at 18, but a number of new or changed tools have been introduced to reduce the harm from alcohol and provide more opportunities for communities and parents to influence drinking environments.

The Act received Royal assent on 18 December 2012 and, while some of the provisions came into effect the next day and others came into effect on 18 June 2013, the Act was fully implemented on 18 December 2013.

The object of the new Act

The object of the previous Act was limited to a reasonable system of control over the sale and supply of liquor in order to reduce liquor abuse. The object of the new Act has changed to safe and responsible sale, supply and consumption of alcohol and the minimisation of harm caused by its excessive or inappropriate use. The policy aims are to:

- reduce excessive drinking by adults and young people

- reduce the harm caused by alcohol use, including crime, disorder, public nuisance, and negative public health outcomes
- support the safe and responsible sale, supply and consumption of alcohol
- improve community input into local alcohol licensing decisions
- improve the operation of the alcohol licensing system.

Key changes or components of the new Act

The key changes brought about by this new legislation are outlined in the boxes below. In particular they cover the areas mentioned in the stakeholder commentaries that follow this overview article. The boxes contain plain English summaries of parts of the Act so don't capture all the specific details of the requirements under the Act. For fuller detail, readers should refer to the Sale and Supply of Alcohol Act 2012. The Act can be found online on the www.legislation.govt.nz website.

Further information about the Act can also be found on:

- www.justice.govt.nz/policy/sale-and-supply-of-alcohol
- www.alcohol.org.nz/legislation-policy/sale-and-supply-alcohol-act-2012

U18



Supply to under 18s

The new law puts more limits on young people accessing alcohol, places more responsibility on those who provide alcohol to them, and gives parents more control.

Someone under the age of 18 cannot be supplied with alcohol unless:

- the person supplying the alcohol is their parent or legal guardian AND the alcohol is supplied in a responsible manner, OR
- the person supplying alcohol has the express consent of the teenager's parent or legal guardian AND the alcohol is supplied in a responsible manner.

Express consent may include a personal conversation, an email or a text message that you have good reason to believe is genuine.

Supplying in a responsible manner involves: supervising the drinking of alcohol; providing food; providing a choice of low-alcohol and non-alcoholic drinks; and ensuring safe transport options are in place. Other factors to be considered are: the nature of the occasion; the time period over which the alcohol is supplied; the strength and amount of alcohol supplied; and the age of the teenager.

The penalty for breaching the law is a fine of up to \$2,000.

Trading hours

New maximum default trading hours apply to businesses that sell alcohol:

- 8am – 4am for on-licences and clubs (such as bars, pubs and nightclubs)
- 7am – 11pm for off-licences (such as bottle stores, supermarkets and grocery stores).

Territorial authorities may set different trading hours as part of a local alcohol policy.

Local alcohol policies (LAPs)

Territorial authorities may, if they choose, develop policies that:

- set more restrictive (or permissive) maximum trading hours
- control the location and density of licences
- specify discretionary conditions on licences
- require one-way door restrictions.

Territorial authorities are required to consult with their communities and stakeholders as they develop their LAP. Individuals and groups should seriously consider making a formal submission. If they do not make a submission on a LAP, they cannot later make an appeal against it.



Changes to the licensing system

All licences are now issued by district licensing committees (DLCs) established in each territorial authority (ie, city or district council). DLCs replace district licensing agencies.

The Alcohol Regulatory and Licensing Authority (ARLA) replaced the Liquor Licensing Authority. It considers: appeals; licence/certificate suspension or cancellation; and matters referred to it by DLCs (with the leave of ARLA's Chair).

DLCs and ARLA are required to have regard to a broader range of criteria than before in issuing licences. Criteria that were not in the old Act include the object of the Act, relevant local alcohol policies, design and layout of premises, the impact on amenity and good order, whether amenity and good order are already so bad that new licences are inappropriate, and whether systems, staff and training are appropriate.

These criteria are also the basis on which objections to a licence (application or renewal) can be made by people with an interest greater than that of the general public.

Medical officers of health now have the opportunity to report on off-licences and special licences as well as on-licences and club licences.



Conditions for sale of alcohol

On and club licencees need to provide free drinking water, non-alcoholic drinks, low-alcohol drinks and food, and help with information about transport. In addition, licensing bodies have greater scope to impose any reasonable conditions on licences including, but not limited to, who may be sold alcohol, one-way door restrictions, and other discretionary conditions set out in local alcohol policies.

Special licences for large-scale events may, should a DLC choose, have conditions imposed relating to management plans, the Resource Management Act 1991 and building code compliance, and Police liaison.

Dairies and convenience stores will not be issued with licences. Supermarkets and grocery stores will be required to have one area within the premises as a permitted area for the display and promotion of alcohol.



Intoxicated people will not be served

If you are intoxicated, staff of licenced businesses cannot serve you or allow you to remain on the premises. This is the same as the previous law.

However, the new Act clearly defines "intoxicated". This means you may be refused service, be asked to leave or be removed if you are affected by alcohol or other drugs or substances and you are displaying two or more of the following conditions:

- affected appearance
- impaired behaviour
- impaired coordination
- impaired speech.



Promotions

Stronger provisions have been introduced for alcohol promotions including making it an offence (with some exceptions) to encourage excessive consumption of alcohol or promote alcohol with special appeal to minors. It is also an offence, outside of licenced premises, to promote discounts of 25% or more, promote free alcohol, or offer benefits on condition that alcohol is purchased.



New on-the-spot fines

You may be given an infringement notice and have to pay a fine if you:

- drink or have an open container of alcohol anywhere in a public place in a liquor ban area. This now includes locations such as car parks and school grounds, not just streets and parks
- present a fake ID
- use someone else's ID to buy alcohol
- give or lend an ID to an under-age person if you know they intend to use it to buy alcohol.

The penalty for breaching these laws is an infringement fee of \$250.



COMMENTARIES

The implications of the Sale and Supply of Alcohol Act 2012

A wide range of businesses, government agencies, territorial authorities, industry associations, and non-government and community organisations have a role in the implementation of the Sale and Supply of Alcohol Act 2012. These roles may be as a regulatory agency, seller or supplier of alcohol, a representative body, or a non-government organisation supporting community involvement.

The Health Promotion Agency has asked a selection of stakeholders to provide a commentary from their own or their organisation's perspective on their experience of the early stages of the implementation of the Act. They are the views of those providing the commentary and reflect both the opportunities for reducing alcohol-related harm and the tensions of the embedding phase of the new legislation. They should be read in this light.

Commentary – New Zealand Police

Implications of the Sale and Supply of Alcohol Act

The Sale and Supply of Alcohol Act 2012 has provided Police with robust, practical tools to prevent alcohol-related harm.

As its foundation, the object of the Act has a wide concept of harm, which provides plenty of opportunity for Police to have meaningful interventions. The extended criteria for issuing licences place more responsibility on the licensee to adopt safe practices in their business, and allow Police more scope to enforce safe and responsible consumption through control on the issue of licences.

The full effect of these provisions will become evident as time goes by, but we believe other changes brought in by this Act have had an immediate and positive effect both on the harm caused by alcohol and on how we prevent alcohol-related harm.

Police can now issue infringement notices for a number of offences contained in this Act, and for public place drinking offences contained in other statutes. This has given police an effective tool for immediate enforcement. In the first 12 weeks since this power has been available, police have issued nearly 1,700 infringement notices and dispensed a similar number of formal written warnings. The majority of these have been for liquor ban breaches. This level of enforcement is similar to before the changes came into place but without the costs and other downstream effects of court appearances, hearings and convictions.

Police are now able to easily prosecute offences that previously received little attention, such as minors fraudulently using another person's evidence of age document. The new offence of supply of alcohol to a minor has also been enforced on a number of occasions and will be an effective tool in preventing harm to this vulnerable group.

The default hours started and the sky did not fall in. What we see in the large city CBDs is an orderly finish to the night and a period that allows entertainment areas, licenced premises, police and other emergency services – as well as the community – to regenerate in order to

be ready for the following day. Police are certainly seeing an improvement in reported crime, with the numbers of public place assaults and disorder dropping significantly overnight in the major city centres and in particular during the period between 4am and 6am.

The definition of intoxication is potentially the largest harm prevention tool in the Act. Although it's unlikely that police officers and licencees will always agree on what constitutes intoxication, the industry knows the intoxication of patrons may have an immediate and direct effect on their business; police know it has an immediate and direct effect on harm. Even though our motivations may be different, they intersect by trying to prevent intoxication and consequently preventing harm.

Uniquely, the Act also places a statutory duty of collaboration on the regulatory agencies. This recognises the power of bringing complementary skills and knowledge together to share responsibility and achieve success. This has given the regulatory agencies many opportunities to put successful initiatives in place, such as the joint training of regulatory staff.

Police are committed to preventing alcohol-related harm and to working collaboratively with our regulatory partners, the industry and the community to achieve this.

Inspector Ben Offner

Manager Alcohol Harm Prevention
National Prevention Centre
New Zealand Police

Commentary – A Medical Officer of Health’s perspective

Can the Sale and Supply of Alcohol Act dent Wellington’s image of being the ‘coolest little capital in the world’?

I am the Medical Officer of Health (MOH) with the alcohol portfolio in the public health unit that covers the greater Wellington region. The new Act heralds significant changes for medical officers of health and public health units.

With the old legislation the focus was on bars (on-licences) and club licences. We are now expected to be involved in all forms of licence, which significantly increases our workload.

There are some unexpected surprises, such as special licences for school fairs. It is impossible to understand why child-orientated events like these should require a licence to sell alcohol. It seems to be common sense that they should be alcohol-free.

The new single location requirement for supermarkets is a developing problem area and the outstanding question is how long should supermarkets be given to comply?

The role and function of district licensing committees (DLCs) are still an unknown quantity. We do expect to be challenging these committees with a greater number of oppositions than we brought before the old Liquor Licensing Authority. It is inevitable that this will be an ongoing learning experience.

Territorial authority (TA) local alcohol policies (LAPs) are creating considerable work for medical officers of health throughout the country. We are treading new ground here, but LAPs offer a window of opportunity to start addressing the alcohol over-supply issue. The Act requires TAs to obtain advice from the local MOH and Police and to be guided by the local knowledge of alcohol-related harm in their district. Unfortunately the Act does not provide guidance on how to deal with gaps in information, how much weight should be given to advice provided by the MOH and the Police, and keeping the focus on the object of the Act rather than economic development.

Two of our cities raced ahead to develop provisional LAPs during 2013 and, in particular, the capital wants to extend the national default hours of 4am for on-licences in the central entertainment district. City councillors are being rattled by fear mongering from the alcohol industry that earlier closing times than 6am or 7am would adversely impact on the night-time economy and detract from the image that Wellington is the ‘coolest little capital in the world’. Along with the Police and the Medical Officer of Health, the respective district health boards feel they have no choice but to appeal the two provisional LAPs. This need to appeal provisional LAPs appears to be a sign that the process of providing advice has not worked as well as it should have. In the meantime, the new 4am closing time is making the central entertainment district a much more friendly and attractive place to be.

A positive spin-off of the LAP process is that we are building new alliances with our clinical colleagues in the emergency departments and mental health services. At the same time, a meaningful partnership with senior police officers in the region is developing.

As we continue on the journey of bedding in the Act, we find that there are many, often subtle, levers to nudge the pendulum back from excessive liberalisation to a more balanced approach to working towards the object of the Act. However, we do recognise that progressive and visionary case law from the DLCs and the Alcohol Regulatory and Licensing Authority will be a key aspect of making positive progress.

Dr Stephen Palmer

Medical Officer of Health
Wellington Regional Public Health

Commentary – Alcohol Healthwatch

Community and the new alcohol law – Where the rubber hits the road

The implementation of the Sale and Supply of Alcohol Act 2012 was hardly a fireworks display, and most would not have witnessed much at all when it came fully into force on 18 December 2013.

If you are one of those who frequent the bars and clubs in the wee small hours, you will definitely have nudged up against the new default trading hours. These are having a positive effect on reducing alcohol-related violence and other crime. However, for most, the on-licence premises in their communities weren't operating past 4am anyway, and the 11pm close for off-licences is unlikely to represent much of a change. For those who top up their drinking over the night from cheaper off-licences, this is harder for you.

In theory it's easier for community stakeholders to prevent a new liquor licence from being granted in their neighbourhood. In practice I wonder, however, how many people actually know this and how to go about it or are inclined to engage in this process.

At this stage, it is hard to read how the new district licensing committees are settling into their new roles. There appear to be some interesting dynamics between these committees and the statutory agencies who are also involved in the local licensing processes. For the communities' sake, there needs to be some level of consistency in decision making.

Mums and dads may be aware of the new rules for supplying alcohol to those under 18 years, but then again they may not. Apart from the 'Cool Dad' advertisements and some resources (produced by the Health Promotion Agency), there hasn't been a lot out there to inform them and other suppliers of alcohol to young people about the rules, and the consequences of not abiding by them. I understand some community action is planned and also some cases are being processed by the Police. It will be important to publicise these to reinforce the law change and ensure that supply to young people is discouraged.

Local alcohol policies (LAPs) are probably where most of the community engagement with the new legislation is happening. About 28 local councils have consulted on their draft LAP so far. A LAP is probably where communities can leverage the greatest gains in terms of harm prevention. However, again I suspect that communities don't realise this. While they have their limitations, LAPs can further reduce trading hours and limit the number and location of outlets. These are evidence-based mechanisms for reducing alcohol-related harm.

As well as the formal consultation process, most councils have undertaken community surveys, workshops or other forms of engagement when developing their LAP. Many of the councils have approached the development of their LAP with caution and under threat from groups with a commercial interest. This is preventing them from fully utilising the law. For example, even small increases in trading hours are being challenged and the LAP appealed. While this might be expected with any new law that changes boundaries, it is concerning given that the intent of the law is to enable communities to have a greater say in these matters.

What causes the greatest concern is the complete disregard for what the community said it wanted by these large corporate and vested interest groups. They are basically saying they don't care what the community wants. Clearly their national sales targets, or should I say international sales targets, are more important.

Rebecca Williams
Director
Alcohol Healthwatch

Commentary – Hospitality New Zealand

Implications of the Sale and Supply of Alcohol Act for the hospitality sector

For many in the hospitality industry, the full implications of the new Sale and Supply of Alcohol Act are slowly dawning. Up to 500% rises in fees, complicated, subjective rules on promotions, mind-boggling increases in the bureaucracy of the licensing process, new offences, a new definition of intoxication, ‘three strikes’, and local alcohol policies are combining to create a new and challenging environment.

In an industry that has already significantly lifted its game over the past 20 years with impressive advances in the area of host responsibility and in the sophistication of its offerings, experienced operators are voicing concerns that the outcomes of the new legislation seem increasingly to be counter-intuitive. Every indicator tells us that alcohol consumption on-premises is more likely than consumption off-premises to achieve the desired objects of the Act; namely that the harm caused by the excessive or inappropriate consumption of alcohol should be minimised and the sale, supply and consumption be undertaken safely and responsibly. However, what the law actually appears to be doing is making on-premises consumption more difficult and more expensive, with the potential net result being to drive consumption increasingly to unsupervised environments.

The frustration at this anomaly, coupled with understandable confusion as the Act beds in, and variable approaches from enforcement agencies around the country, has added to what has not necessarily been the happiest of introductions to the new legislation for many in the industry. Stories of Police breathalysing staff members and of duty managers closing pubs early because they are too scared to stay open in case they are deemed to have an intoxicated person on the premises have not helped. The ever increasing prevalence of preloading, which so vexes the hospitality industry, does not seem to have been dealt any significant blow by the new Act.

On the positive side, the introduction of infringement offences for members of the public who present a false ID or drink in a liquor ban area is seen as a baby step in the right direction of increasing the individual's responsibility for the choices they make around alcohol consumption.

Possibly the area of the Act most frequently discussed since its inception is that of promotions. The *National Guidance on Alcohol Promotions* produced by HPA, in conjunction with Hospitality New Zealand, the Police and other agencies, is helpful. However, if the continued volume of questions fielded daily by the Hospitality New Zealand team is anything to go by, it is one of the least understood and most contentious areas so far.

It is very early days for the largely untested new Act. We are yet to see what position the Alcohol Regulatory and Licensing Authority (ARLA) will take with regard to the question of the requirement to provide evidence of harm to justify reduced trading hours in local alcohol policies. We do not yet know how the new district licensing committees will operate, what will be determined as a reasonable condition to impose on a licence, or what evidence proves intoxication. What is clear is that for an already highly controlled industry, this is a significant step further down that regulatory path. Whether that will help minimise the harm caused by inappropriate or excessive consumption of alcohol is questionable and remains to be seen.

Sara Tucker

Deputy Chief Executive
Hospitality New Zealand

Commentary – Local Government New Zealand

Local government's role in creating local alcohol policies

Local government plays a leading role in alcohol harm reduction in communities around the country by setting local alcohol policies that support safe and responsible consumption of alcohol.

One of the key developments of the Sale and Supply of Alcohol Act 2012, which came into full force in December 2013, was the provision for territorial authorities to develop a local alcohol policy.

By definition, a local alcohol policy is a set of decisions made by a territorial authority about the sale, supply and consumption of alcohol within its district. Once a local alcohol policy is in place, district licensing committees and other licensing decision makers use it as a guide for considering licence applications. Local alcohol policies are formed in consultation with communities, so that residents have a say on how and where alcohol can be sold and consumed in the regions they live and work in. A key objective of the Act was to facilitate greater community input into local decision making developed in consultation with Police, inspectors, and medical officers of health.

Bylaws regulate whether or not people can drink in public places such as in parks and on beaches. Local alcohol policies can put in place restrictions on elements relating to licensing such as maximum trading hours, the acceptable density of licenced outlets in any one area, discretionary conditions for licences, and where alcohol can be sold. For example, a territorial authority may choose to set maximum trading hours to reflect not only community input, but also earlier closing retail hours in their district. Local alcohol policies can also detail that alcohol cannot be sold near schools or early childhood centres, hospitals or rest homes, residential housing, religious and community premises such as churches or marae, or facilities such as playgrounds, sporting complexes and swimming pools, public transport hubs and other community facilities.

Some territorial authorities currently have liquor licensing policies, strategies and plans but they are not legally enforceable. The new Act will give legal standing to local alcohol policies that have been developed according to the Act's requirements. Each territorial authority can have only one local alcohol policy, but it can contain different conditions for different areas within the territorial authority's district. There is also a provision for two or more territorial authorities to adopt a joint local alcohol policy for their districts.

Local alcohol policies are optional. They come into force after local authorities develop a provisional local alcohol policy and give public notice of it with the rights and grounds of appeal against it. The only ground on which policies can be appealed against is if an element is 'unreasonable' in the light of the object of the Act. Several councils have received appeals, predominantly from supermarket chains and some liquor chain stores for the maximum trading hours and discretionary conditions for off-licences.

Tasman District Council and Waimakariri District Council were among the first councils nationwide to publicly notify their provisional local alcohol policies, and will subsequently be the first to go through the hearings process with the Alcohol Regulatory and Licensing Authority in late July/early August. As a result, all appeals will now be held in abeyance pending the outcome of these first two appeals.

Lawrence Yule

President
Local Government New Zealand



New challenges for party hosts

Social supply to minors



One of the key new features of the Sale and Supply of Alcohol Act 2012 was the introduction of new provisions (section 241(1)) for the supply of alcohol to minors. In New Zealand there is no legal drinking age, but it is an offence for a minor to purchase alcohol. People younger than 18 years are defined as minors for the purpose of the Act.

Research indicates that ‘social supply’ of alcohol is a reality in New Zealand. A nationwide survey of secondary school students in 2012 found that 60% of current drinkers got their alcohol from their parents. Friends supplied alcohol for 44% of current drinkers.

Thirty percent got someone else to buy them alcohol and 11% of students who were current drinkers bought their own (Clark et al., 2013).

From 18 December 2013, it became an offence to supply alcohol to anyone younger than 18 unless:

- the person supplying the alcohol is the parent or legal guardian and the alcohol is supplied in a responsible manner, or
- the person supplying alcohol has the express consent of the young person’s parent or legal guardian **and** the alcohol is supplied in a responsible manner.

Since this became law, the Health Promotion Agency (HPA) has received a number of enquiries from parents, guardians and other potential ‘suppliers’, who have identified some practical challenges about supplying alcohol to teenagers. Enquiries were also received following the HPA’s ‘Cool Dad’ social marketing campaign, which raised awareness of the new law about social supply to minors.

This article explores some of the questions raised through public enquiries, in particular about what is meant by “responsible manner” and “express consent”. It also highlights the need for party hosts to think and plan ahead when hosting parties involving alcohol and people under 18.

Supplying alcohol in a responsible manner

The following fictional scenario illustrates a common enquiry about what supply of alcohol in a responsible manner means.

David was faced with a couple of issues that made him question his responsibilities when hosting his daughter Jasmine's 17th birthday party.

Jasmine invited about 25 people between the ages of 16 and 21 to her party and most of them turned up. Some of them brought other friends along too. David had spoken to several parents and was given the OK to supply alcohol for some of the guests who were younger than 18.

The party was going well and Jasmine was having a blast, when David became aware that two under-age guests were drinking RTDs (ready-to-drink alcoholic drinks) they'd brought with them to the party. When David questioned them, they said their parents had given them the drinks. David was unsure of what to do. He didn't give the teens the alcohol, but they were drinking it at his house. He noticed some guests were also sharing their alcohol with others. David felt out of control.

Some of the questions that may come to mind when reading this scenario include the following:

- Is David required to seek consent during the party for the kids who were not invited but came with Jasmine's invited friends and are drinking?
- Is he obliged to call the parents of the kids with the RTDs and seek express consent?
- What about the other parents' obligation to supply the alcohol in a responsible manner; does that affect his responsibilities?
- Would the 'sharers' be considered the supplier, or would he?
- Should he ask the kids who consumed alcohol but for whom he received no express consent to leave?
- If something happened to them later on in the evening, would he be held responsible?
- Should he confiscate the alcohol?

Knowing there would be minors at the party keen to participate in the festivities, David did the right thing by seeking consent from their parents or legal guardians. However, having express consent from the parents of only some of the under 18 guests was just one of many circumstances that presented him with problems when it came to supervising the party.

Section 241(3) of the Act provides a list of things that might be used to decide if the actions of the supplier, David in this case, meet the responsible manner requirements. A responsible host, for example, would supervise the consumption of alcohol, provide food and non-alcoholic beverages, arrange for safe transportation home or elsewhere afterwards and consider the alcohol content of the beverages he or she provided, among other things.

David's case illustrates the often spontaneous and unpredictable nature of social events, such as parties. Unexpected guests, guests with alcohol supplied by others, and guests sharing alcohol highlight the important interaction of supply and responsible manner requirements. They demonstrate the need for planning and the importance of supervision of parties that include young people.

It is likely that the definition of what constitutes supply in a "responsible manner" will be tested over time in the courts. Ideally the decisions of the courts will provide further clarification for community members and more importantly for parents and guardians.

Express consent

The following fictional scenarios are about express consent. They deal with dilemmas parents and guardians might find themselves confronted with. Consider Bianca's story.

Bianca's son Finn got intoxicated at his best mate Matt's house on Friday. Because Finn is only 15, he asked his dad to call Matt's parents and tell them it was OK for them to provide drinks. Finn's parents are not together and he knows his dad is a bit more laid-back in his attitude to alcohol use than his mum.

Unfortunately, Matt's parents didn't keep a close eye on how much the boys were drinking and things quickly turned to custard. They called Bianca and asked her to come and pick up her son, who was vomiting in their pool. Bianca was really upset that her ex-partner allowed their son to be supplied with alcohol. In her view, if "express consent" was something that had to be sought and received from both parents, then Finn would not have become intoxicated.

The law does not require both parents' consent for their teen to be supplied with alcohol. It appears in the example provided above that Matt's parents did not supply alcohol to a minor in a "responsible manner".

While the Act's requirement for "express consent" is clear, the legislation does not specify the manner in which it should be provided.

The following scenario highlights one issue that may crop up:

Gemma had her heart set on going to the after-ball party. Josh's parents were hosting the party and had asked all prospective attendees for their parents' contact details so they could ask for consent to supply alcohol. Gemma gave her mum's email address. When the email arrived, it was Gemma – knowing her mum's login details – who replied and gave permission.

Gemma's mum was completely in the dark as Gemma had quickly deleted the emails sent and received about the party from her mum's account. Therefore, Josh's parents were essentially supplying alcohol without consent.

However, if as a host you have a reasonable belief that you have the express consent of the parent or guardian, as did Josh's parents, then there should be no issue if you have supplied the alcohol in a responsible manner.

Overall, the tone of enquiries to HPA suggests a commitment and willingness to do the right thing when supplying alcohol to young people under 18.

As we wait to see how the new social supply provisions will operate in practice, there are resources available that provide further information on the requirements about social supply to minors. These include video clips and fact sheets available on the HPA website www.alcohol.org.nz for parents and young adults that address specific questions around social supply.

Reference

Clark, T. C., Fleming, T., Bullen, P., Denny, S., Crengle, S., Dyson, B. ... Utter, J. (2013). *Youth'12 Overview: The health and wellbeing of New Zealand secondary school students in 2012*. Auckland: The University of Auckland.



Preloading

The party before the party

Preloading seems to have become a routine part of a drinking occasion for many who are engaging in the night-time economy (NTE) of pubs, bars and clubs. Studies examining practices in the NTE have found, for example, that nearly two-thirds of those who go into town for a night out have preloaded (see Miller et al., 2013).

So what is it exactly? The term 'preloading' is used to describe the consumption of alcohol in an unregulated setting (like someone's home, in a hotel room or on the street) before a night out or other type of social activity or occasion. It is also known, particularly in the American context, as frontloading, predrinking, pregaming, prepartying and prefunking.

Is it a new phenomenon? No. But the fact that it is becoming more a regular practice across different groups indicates it is a far more typical occurrence in a 'night out' than it perhaps was in the past.

Motivations and practices

So why preload? When comparing the cost of a bottle of wine in the supermarket with the price of a glass of the same wine at a pub or bar, the reason appears obvious. However, researchers are finding that, while the availability of cheap alcohol at off-licences is a primary motivation for preloading, there are other factors involved. Wells, Graham and Purcell (2009), for example, found that drinkers preload to achieve intoxication and also to meet social goals such as being with friends and for increased confidence for the night ahead (see also Foster, 2012).

Other studies have found that preloading is a part of protracted group preparations (Waitt, Jessop & Gorman-Murray, 2011), to satisfy social motivations that are not on the evening's agenda, such as catching up with intimate friends (Hutton, Wright & Saunders, 2013). For minors (in New Zealand, those under the legal purchase age of 18 years), a preloading event is often the only opportunity to consume alcohol (Pedersen & LaBrie, 2007).

There are also age and gender specific practices associated with preloading. Younger adults are more likely to preload than older adults (Measham, Moore & Østergaard, 2011; Miller et al., 2013). Male drinkers are more likely to preload than female drinkers (Miller et al., 2013). Pedersen, LaBrie and Kilmer (2009) found that male drinkers were more

likely to preload with drinking games, before concerts/sporting events, before going to a movie and when by themselves. Female drinkers, on the other hand, were more likely to preload with friends, before going to a bar and while listening to music.

While there is a variety of motivations for – and practices of – preloading, there appears to be a fairly definitive pattern to preloading events. Most preloaders plan to preload (Barton & Husk, 2012; Forsyth, 2010; Hutton et al., 2013; McEwan, Swain & Campbell, 2011). Most preloading occurs in private homes (Miller et al., 2013). Preloaders also tend to drink more over the course of a drinking occasion than non-preloaders. Measham et al.'s (2011) study, for example, found that preloaders consumed approximately eight units (with no gender differences found), prior to 'going out' (see also Wells et al., 2009).

Implications

These patterns of preloading raise a number of issues that could be considered further. That one of the motivations for preloading is to achieve intoxication, and that preloaders drink more over a typical occasion than non-preloaders do, indicates that 'low risk' drinking advice is not being followed by a significant segment of the drinking population. This may be due, in part, to understandings of 'a drink' being relatively different from amounts used to calculate standard drinks.

Another factor is an absence of natural breaks (like moving between bars) and of soft-end controls (like door-men having a quiet word to slow down) (Barton & Husk, 2012). As Measham et al.'s (2011) study found, many women have surpassed their 'safe' levels before they even enter a bar.

There is some evidence that an intention to have a night 'on the town' can curb the consumption levels at a preloading event. McEwan et al.'s (2011) study of drinking by tertiary students found that the achievement of a predetermined level of intoxication was planned for in consultation with peers and that preloading was integral to meeting this goal. At the same time, levels of intoxication were, however, monitored to ensure entry into on-licensed premises.¹

However, one of the risks of consuming large amounts of alcohol, as Pedersen et al. (2009) note, is that a person may not experience the full effects of ingested alcohol until reaching the desired destination or occasion. For the preloader, this may mean that intended goals for the evening will be waylaid, or that risks normally associated with the end of a night out need to be dealt with at the start. Wells et al. (2009, p. 6) note that preloaders are "navigating public places and using various modes of transportation with impaired judgement and reduced perception of risk on their way to licenced premises".

For licencees, challenges emerge for the responsible service of alcohol at licenced premises (Hughes, Anderson, Morleo & Bellis, 2007; Pedersen & LaBrie, 2007). Patrons who have preloaded may make it past the doorman (if the full effects of alcohol consumed are not yet apparent), and then not come into contact with bar staff at all (once those effects commence). The Sale and Supply of Alcohol Act 2012 states that it is an offence to sell or supply alcohol to an intoxicated person (Part 2, s 248), but also that it is an offence to allow people to *become* intoxicated on licenced premises (Part 2, s 249) and an offence to allow a person to *be* intoxicated on licenced premises (Part 2, s 252). A study in the Australian context found that many on-licence licencees view it as unfair that they carry the responsibility for intoxicated patrons who have spent their money at off-licences, such as bottle stores and supermarkets (Miller et al., 2012).

An alternative way to address the harm associated with preloading is to entice people back to public spaces where supervision exists. There are some indications that efforts to reduce alcohol-related harms at on-licence premises may have had an unintended consequence of displacing drinking practices to unregulated spaces (such as the home) (Forsyth, 2010; Wells et al., 2009). Wells et al. (2009) argue that moves to expand the social atmosphere of bars toward intimate socialising and away from "high-energy chaotic environments" would address the more social motivations for preloading, as would more affordable prices address the economic incentive.

Ultimately, however, the intent to get drunk needs to be tackled via efforts to promote moderation alongside a range of other multi-level interventions to reduce alcohol-related harm.

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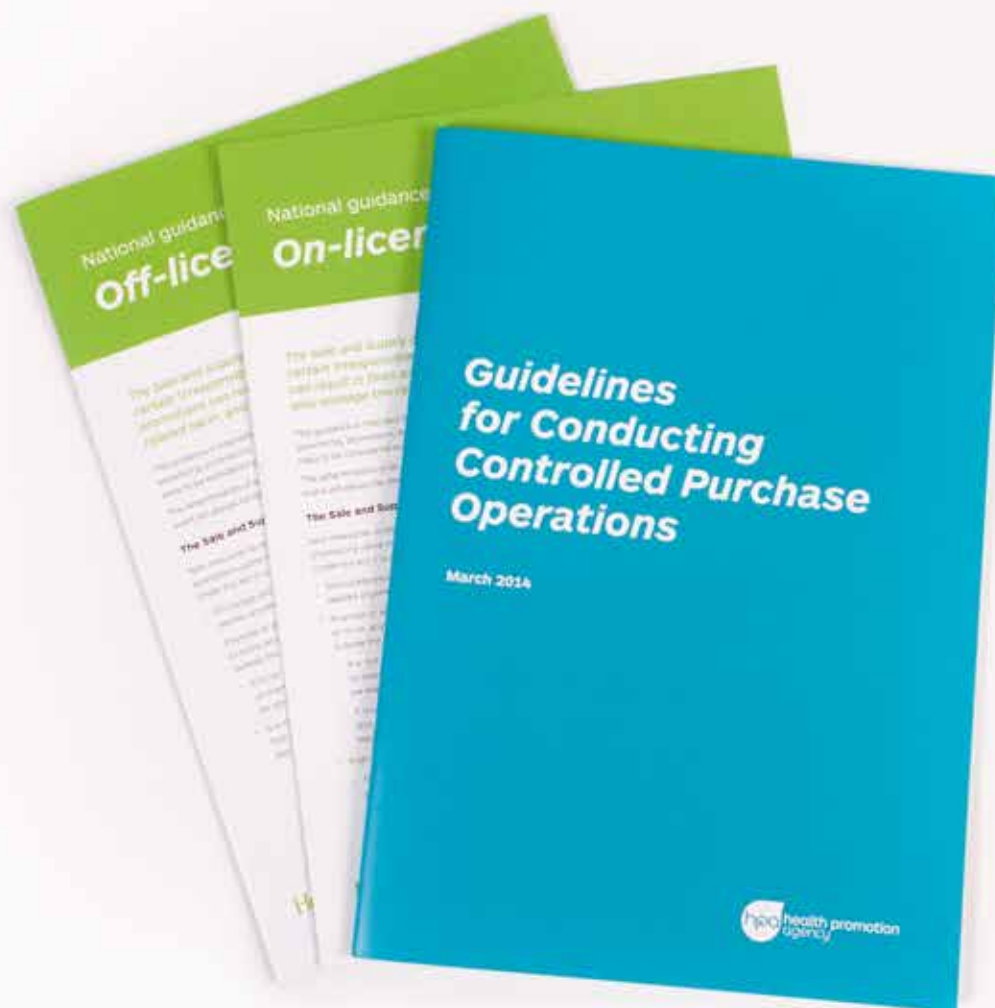
¹ Intoxication levels were also monitored to minimise the impact of alcohol-related harms.

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New HPA sale and supply of alcohol guidelines and resources

Many important HPA guidelines and resources have been developed or updated to incorporate the law changes in the Sale and Supply of Alcohol Act 2012. They are available free of charge electronically and to order at alcohol.org.nz



National Guidance on Alcohol Promotions (for on-licenced premises and off-licenced premises) aids understanding of the advertising, promotions, activities and events that are likely to be considered acceptable or unacceptable under the Sale and Supply of Alcohol Act 2012. These guidelines are important to both hospitality staff and regulatory agencies' staff.

The Guidelines for Conducting Controlled Purchase Operations (CPOs) are a tool for those whose roles include responsibility for monitoring and enforcing the Sale and Supply of Alcohol Act 2012, specifically to reduce the illegal sale of alcohol from licenced premises to under-age people. They are of particular use for Police, medical officers of health and licensing inspectors but can also be used as an educative tool for licencees, their staff and the wider community.



Host Responsibility: Guidelines for Licenced Premises provides a range of host responsibility strategies and tools to assist staff in licenced premises to meet their obligations under the Sale and Supply of Alcohol Act 2012 and help minimise alcohol-related harm. It is of value to bars, taverns, restaurants, cafes and clubs.

The Manager's Guide is a guide to the Sale and Supply of Alcohol Act 2012 and other important legislation. It is more detailed than the *Bar Code* and *Host Responsibility Guidelines* and of value to managers and licencees.



The Bar Code is designed for front-line staff in licenced premises. It outlines what is required by law and gives practical tips on the responsible service of alcohol.

The Intoxication Prevention Tool outlines key indicators of intoxication and appropriate server interventions. It is important for all servers of alcohol in on-licenced premises and provides a strong basis for staff training.

Briefs

Headlines from around the world

AUSTRALIA

Firm rules by parents can prevent adolescent binge drinking

A Deakin University study has found that rates of teen binge drinking were reduced by 25% when parents set rules not to supply or allow adolescent alcohol use.

A research team led by Deakin's Professor John Toumbourou conducted a two-year Resilient Families parent education programme through the early secondary school years. Information was provided on the harmful impact of adolescent alcohol use and parents were encouraged not to supply or allow adolescent alcohol use.

The researchers found that rates of binge drinking at age 14 were reduced by 25% in the 12 schools that were randomly assigned to the Resilient Families programme, compared with 12 usual practice comparison schools. The results have been published in the *Journal of Adolescent Health*.

<http://www.deakin.edu.au/news/2013/151013teenalcohol.php>

More Australian teenagers are just saying no to alcohol

The number of young people in Australia who abstain from drinking alcohol has dramatically increased, new research shows. Surveys of the drinking habits of more than 2,500 teenagers show that, in the decade leading up to 2010, the rate of young people choosing not to drink climbed from about one in three to over half.

The study, published by a University of NSW public health academic, Michael Livingston, has shown that the decline was uniform across gender, age, income, ethnic background, socioeconomic status, and teenagers living in the city and country.

"Respondents were approximately twice as likely to report abstinence from alcohol in 2010 as 2001 once [these] factors were controlled for," Livingston said. Teens were not replacing alcohol with illicit drug use, rates of which had "dropped just as fast among this group", he added.

Livingston put the trend down to increasing social concerns about the impact of alcohol abuse, more time spent on the internet rather than on activities typically paired with drinking, and the changing composition of Australian society, increasingly made up of young people from lighter drinking cultures.

<http://www.theguardian.com/world/2014/apr/10/more-australian-teenagers-are-just-saying-no-to-alcohol>

Facebook is fanning alcohol use

Facebook has become saturated with official and unofficial alcohol marketing, in a trend health experts say is exposing young people to relentless promotion of binge drinking.

Alcohol brands have an average of 75,000 fans across 11 Australian-based official Facebook pages, but some have up to 50 times that in unofficial pages set up by 'fans'.

An analysis by University of Wollongong researchers has found even some of the official Facebook pages appear to have promoted excessive drinking, while the unofficial pages are far worse.

"In some cases it's appalling," said lead researcher Sandra Jones, director of the university's Centre for Health Initiatives. "I think sometimes as parents or a community we are very concerned about our child's friends in the real world, but we're not aware of some of the 'friends' they have online that can be quite harmful."

Marketing on official alcohol company Facebook pages included posts that suggested drinking early in the morning, positive depictions of huge numbers of empty alcohol containers, and a giveaway for a "year's supply of beer". This turned out to be only for a cash-equivalent, but the terms and conditions stated a year's supply was a case a week, an amount massively in excess of safe drinking guidelines.

Professor Jones said Facebook and alcohol companies need to crack down on fan-based pages, which reflect dangerous attitudes towards drinking among some in the community.

<http://www.theage.com.au/national/facebook-fanning-alcohol-use-20131201-2yjvc.html>

UNITED KINGDOM

Alcohol industry's complaints about TV advertisement's cancer link are thrown out

Alcohol industry complaints that a television advertisement linking drinking with an increased risk of cancer was misleading have been thrown out. The Advertising Standards Authority rejected the complaints after being presented with some of the large body of evidence about alcohol and cancer risk.

The ad, which was broadcast in the north-east of England and produced by local alcohol campaign group Balance, showed a man in his kitchen preparing a meal. After taking a bottle of beer from the fridge and starting to drink it, a small tumour was seen in the bottom of the glass. It grew with every sip he took, before sliding down the glass towards his mouth.

Balance had spoken to doctors to ensure the commercial was not misleading or alarmist. It highlighted the fact that the World Health Organization classes alcohol as a Group 1 carcinogen, alongside tobacco.

Colin Shevils, Balance's Director, said the parts of the alcohol industry that objected had been "highly irresponsible" in trying to stop the public learning that alcohol intake can increase the risk of cancers such as those affecting breast, liver and mouth. Surveys have shown that few people know that alcohol can be carcinogenic and not just for those that drink heavily.

<http://www.theguardian.com/society/2014/apr/23/alcohol-advertising-protest-cancer-tumour?INTCMP=ILCNETXT3487>

UNITED STATES

Powdered alcohol for US market hits label snag

A powder that would give new meaning to mixed drinks may take time to hit the US market after regulators found a labelling problem.

Palcohol – a powdered alcohol product – is made by Arizona company Lipsmark and will come in six varieties of single-drink pouches, the company website says. It would be the first such product available for sale in the United States, though powdered alcohol has already been approved in Japan and some European countries.

However, after Lipsmark reported it was on track for release in the fall, it later said that it learned of a "discrepancy" from the Alcohol and Tobacco Tax and Trade Bureau. A spokeswoman said that the issue did not mean approval for Palcohol had been withdrawn.

<https://au.news.yahoo.com/thewest/business/world/a/22860231/powdered-alcohol-for-us-market-hits-label-snag/>

Diageo says alcohol companies must "fight for their right" to help tackle irresponsible drinking, in the face of "negative sentiment" from NGOs and governments

In a speech to the Impact Marketing Seminar in New York City, Diageo Chief Executive Ivan Menezes said Diageo's commitment to commercial success was matched by its "commitment to preventing misuse of alcohol and tackling irresponsible consumption of our products".

He admitted that "some of our consumers misuse alcohol, that this is a real problem and needs to be tackled".

Menezes acknowledged that efforts by alcohol firms to engage with drink regulation were not always welcomed. For example, Margaret Chan, Director-General of the World Health Organization (WHO), believes industry involvement in regulation means the most effective measures are "downplayed or left out entirely".

Menezes said that while "some public health groups argue that our point of view should not be heard, that we should not be allowed to market our products, that our responsible drinking programmes are mere window-dressing...industry must have a seat at the table. We have valuable expertise and a legitimate point of view and need to fight for our right to participate".

<http://www.marketingmagazine.co.uk/article/1286544/diageo-boss-some-consumers-misuse-alcohol-needs-tackled>

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PO Box 11791 Ellerslie
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Fax: (09) 916 0339
Email: enquiries@hpa.org.nz

Southern Regional Office

Level 1, CBRE House
112 Tuam Street
PO Box 2688
Christchurch 8140

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Email: enquiries@hpa.org.nz

To order resources visit **alcohol.org.nz**
and go to Order Resources