

Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill

Member's Bill

As reported from the Law and Order Committee

Commentary

Recommendation

The Law and Order Committee has examined the Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill and recommends that it be passed with the amendments shown.

Division of the bill as introduced

The bill referred to us was the Sale of Liquor (Youth Alcohol Harm Reduction) Amendment Bill. We have divided it to create two separate bills: the Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill and the Sale of Liquor (Youth Alcohol Harm Reduction: Television Broadcasting Promotion) Amendment Bill. The original bill addressed two distinct issues. Clauses 4 to 9 dealt with the minimum legal purchase age and the supply of liquor to minors. Clauses 3 and 10 dealt with restrictions on the broadcast advertising of liquor. We have divided the original bill along these lines.

Our consideration and the structure of this commentary

The bill will be a conscience vote for Members. We have sought to recommend amendments to the bill in terms of policy content to leave the intent of the original bill largely intact while ensuring the bill is coherent, particularly in terms of consequential amendments and amendments to related legislation.

This commentary starts by setting out the major issues raised during the hearings of evidence and our consideration. It then discusses the amendments we have recommended to the bill with a view to making it a workable piece of legislation.

Minimum purchase age provisions

The bill centres on the issue of the minimum legal purchase age for alcohol, which it proposes to raise to 20 years. Out of 180 submissions, 81 support raising the age, 61 oppose it, 11 have a mixed view and 15 make no comment on the issue. 12 submitters specifically noted their preference for a split age for sale or supply on or from on- and off-licensed premises.

Support for raising the purchase age to 20 years

Those who support raising the purchase age to 20 years are generally concerned about the way young people currently use alcohol, and they consider that lowering the minimum purchase age in 1999 has had negative effects on youth drinking. We were given many examples of the kinds of harm that may be linked to alcohol use. They include drink-driving injuries and deaths, violence, sexually-transmitted infections, unwanted pregnancies, mental illness and impaired brain development, self-harm and suicide, addiction to alcohol, and death by alcohol poisoning. Those who support raising the purchase age consider young people more vulnerable to alcohol-related harm than adults, and believe they experience a disproportionate amount of such harm compared with older age groups. Some submitters cite American studies that have found that raising the drinking age (most US states specify an age at which it is legal to drink alcohol, rather than an age at which it is legal to purchase it) may reduce alcohol-related harm.

Supporters of a higher purchase age consider that New Zealand has an unhealthy binge drinking culture especially among young drinkers. They consider raising the minimum purchase age to be one of the most effective tools for reducing youth drinking. It was pointed out that much research, including work done by the World Health Organization, supports using a minimum purchase age to this end.

Some people advocate raising the age in order to reduce the potential for brain damage from alcohol abuse by young drinkers. We were told that the development of the brain is not complete until at least

age 20, and that alcohol consumption can prevent the brain from reaching its full potential.

We also note the Police Association's informal survey, which showed that a majority of respondents supported the raising of the purchase age from 18 to 20 years.

Opposition to raising the purchase age to 20 years

Those who oppose the raising of the purchase age consider it would contribute to inconsistencies in the rights and responsibilities, under the law, of young people. They point out that 18 is generally accepted to be the age at which people are responsible to make their own decisions about the way they live their lives. They also argue that the bill targets young people unfairly, as the vast majority of 18-year-olds are mature enough to consume alcohol responsibly.

Those opposing the change acknowledge the potential harm resulting from alcohol use but they consider that raising the purchase age again is not the best way to address the issue. Many argue that it is New Zealand's drinking culture (and binge drinking in particular) that is the problem. This behaviour is prevalent across age groups, and alcohol abuse does not affect only young people. They consider that various policy measures, such as education and better enforcement, are required to address alcohol-related harm, and that raising the purchase age will not be effective on its own.

Many of those opposing the bill consider that raising the age may worsen issues regarding the safety and health of young people, who will continue to drink despite the law change. They argue that underage drinkers will simply drink in unsupervised public or private places rather than on on-licensed premises, where there are security provisions and trained staff. Some people also believe that if alcohol becomes less available to them, 18- to 19-year-olds may move to other legal and illegal drugs.

Many opponents of the bill noted that it will create a more restrictive drinking environment than that which existed before 1999, when minors could consume alcohol on on-licensed premises under specified circumstances. They also said that evidence on the results of lowering the purchase age in 1999 was inconclusive, with many citing the 2005 Ministry of Justice report *Young People and Alcohol: Some Statistics to 2003 and 2004 on Possible Effects of Lowering the Purchase Age*.

Split ages for on- and off-licensed premises

In addition to the options of setting the purchase age at 18 or 20 years, we discussed the possibility of different purchase ages for on- and off-licensed premises. It was proposed by some submitters that the minimum legal purchase age be left at 18 years for on-licensed premises, and raised to 20 years for off-licensed premises.

Some people consider the proposal is a good compromise, which accommodates solutions to many issues that arise from setting the age arbitrarily at either 18 or 20 years. They argue that this proposal puts certain controls on youth drinking without punishing the majority of 18- and 19-year-old drinkers, who manage their alcohol use responsibly. It was pointed out that on-licensed premises provide controlled and safe drinking environments (they are supervised by duty managers and staff trained in host responsibility) where 18- and 19-year-old drinkers are less likely to suffer or cause harm than in uncontrolled and unsupervised settings. Customers can also buy food and low-alcoholic or non-alcoholic drinks, and are encouraged to drink sensibly.

Many people noted that 18- and 19-year-olds often purchase alcohol at off-licensed premises and supply it to their under-18 year old friends. Supporters of the split-age proposal argue that raising the age to 20 years for off-licensed premises would help to prevent friends supplying minors with alcohol to be consumed in uncontrolled environments.

However, it was noted that the proposal would re-introduce some of the complexity that the 1999 legislation was designed to eradicate. Some people suggested that the different age requirements would initially generate much confusion. They consider that a split age will make enforcement more complex and difficult. They note that enforcement is crucial to the success of achieving the bill's aim of reducing harm, and that a single consistent purchase age simplifies enforcement, making it more effective.

It is also noted that a split age may be perceived as inconsistent with the aim of reducing harm to youth from alcohol consumption. If alcohol is harmful to young people, the place of consumption (on- or off-licensed premises) is not pertinent to the adverse health effects, such as harm to brain development.

We note that the Ministry of Health does not support the split age proposal. It is not aware of any evidence that a split purchase age

reduces alcohol-related harm. It also notes that, although on-licensed premises can provide a safer environment for young people to drink, this is reliant on adherence to host responsibility guidelines, which it cautions are not always followed.

Age restrictions for other substances or activities

We were interested in comparing the ages at which, under the law, certain rights and responsibilities are conferred or imposed upon a person. We note that at age 18, a person can vote in elections, serve in the military, get married or enter into a civil union or de facto relationship, purchase tobacco and publications that are age-restricted under the Films, Videos, and Publications Classification Act 1993, enter into a credit contract or qualify for a mortgage, and hold a firearms licence. Guardianship of a child also ends (if it has not ended earlier for another reason, such as a court order) at age 18. However, we also note that breath-alcohol and blood-alcohol limits for younger drivers are much lower than for older drivers.

International comparisons

We were interested in the purchase and drinking ages, and access by minors to supervised or restricted areas, in comparable overseas jurisdictions. We received advice relating to Australia, Canada, France, Ireland, the UK and the USA. Different restrictions apply in particular circumstances but generally the purchase age in Australia, Ireland and the UK is 18 years, in Canada 18 or 19 years (depending on the province), in the USA 21 years, and France 16 years. Most of these countries have a number of restrictions on the entry of minors to licensed premises, but they do not explicitly require the designation of areas a minor may not enter. In general, these countries allow minors to be on licensed premises when accompanied by a parent or guardian.

We note that the World Health Organization has published research showing that international age limits for buying alcohol vary from 15 to 21 years, with 17 or 18 being the most common age set for the purchase of alcohol.

Effect of alcohol on brain development

Some people support raising the minimum legal purchase age in order to minimise damage to young people's brains. We understand

that there is evidence that the developing brain is adversely affected by alcohol, but more knowledge is needed about the process of brain maturation. There is no consensus on the exact age at which brain development is complete, but experts suggest that it continues until at least age 20, and possibly well into the twenties. They also suggest that the developing brain is particularly vulnerable to the effects of alcohol compared to the mature brain. We note that the Ministry of Health considers that this should be one of the important factors in deciding the minimum legal purchase age. We understand that the science and evidence base in this area is still developing.

Effect of lowering the purchase age in 1999

There are two main schools of thought about the effects of the previous lowering of the minimum purchase age: that it has had negative consequences, and that the evidence is inconclusive.

Negative consequences

Some people consider that alcohol-related harm to young people has worsened since the purchase age was lowered to 18 years in 1999. They cite instances such as an increase in the number of 14- to 17-year-olds drinking, increases in alcohol-related hospitalisations and increased disorderly behaviour, and an upward trend in youth drink-driving. Some people are particularly worried about the increase in alcohol-related car crashes involving youth, and cited national and international studies linking the trend with the lowering of the legal purchase age.

Some people are concerned that lowering the purchase age to 18 years has reduced the age at which even younger people can access alcohol. Many claimed that it is very common for 18-year-olds to supply their younger friends with alcohol. Some argue that this has contributed to a de facto drinking age as low as 12 years.

Inconclusive evidence

Other people told us that there is no conclusive evidence that the lower minimum purchase age has had a detrimental effect on young people. Many cited the 2005 Ministry of Justice report *Young People and Alcohol: Some Statistics to 2003 and 2004 on Possible Effects of Lowering the Purchase Age*, which states that no clear picture has emerged of the effects of lowering of the purchase age on young peoples' drinking behaviour. Moreover, they argued that any

changes in the patterns of young people's drinking reflect trends that commenced well before 1999.

Availability and supply

Concern was expressed about the availability of alcohol in the community, and the ease of access to alcohol by minors in particular.

Supply of alcohol to minors

We were told that parents are the predominant source of supply of liquor for people aged 14 and 15 years, and that friends are the predominant source for those aged 16 and 17 years. Several people cited a 2003 report by the Alcohol Advisory Council of New Zealand, which states that only 13 percent of 14- to 17-year-old current drinkers said they had bought alcohol themselves. This means that 87 percent of supply came from parents, friends, siblings, other family members, and strangers. The report also states that 84 percent of current drinkers aged 14 to 17 years said that on their last drinking occasion, a parent or guardian was aware that they were drinking.

Concern was frequently expressed that older friends and other adults are supplying liquor to minors with little thought for the law or the consequences. Many people cited examples of adults being successfully approached by under-age young people outside bottle stores to purchase liquor on their behalf.

We were interested to note evidence from the New Zealand Police showing that for 18- to 20-year-old alleged offenders, in nearly 52 percent of the cases, the last drink before the alleged offence was committed was taken at home or in a private residence.

Liberalisation of the availability of liquor

Some people consider that the Sale of Liquor Act 1989 creates a liberal drinking environment in which alcohol is too easily accessible and open to abuse. They expressed concern at the growth in the number of off-licensed premises, especially with beer and wine available at supermarkets, and the extension of opening hours for off-licensed premises. They consider that the increased numbers of liquor outlets is linked to increased alcohol-related harm, such as traffic injuries and violent crime. Some people favour limits on the number of off-licensed premises per capita, and a reduction in opening hours for off-licensed premises.

Liquor licences

Concern was expressed about the perceived ease with which liquor licences can be obtained. The Alcohol Advisory Council of New Zealand told us that the number of liquor licences issued has grown dramatically in the last 10 years, with the number of liquor outlets increasing from 1,985 in 1989 to 15,475 in 2004.

Some people argue that the prescribed fees for liquor licences should be raised. We were told that applicants or licensees pay a single application fee (rather than annual operating fees) to councils and that most established premises are on three-year licences, representing about \$5 per week. It was also noted that the industry relies on experience and training to function responsibly, and this is not reflected in the low prescribed fees for licences.

Some people argue that a new applicant for a liquor licence should be required to demonstrate that granting it would be in the public interest, and that the outlet in question is desired by the local community. It was also suggested that councils should be required to notify the public of applications, and develop local alcohol strategies.

Enforcement

Many people consider that the current law must be better enforced, regardless of the minimum purchase age, if it is to be effective in reducing harm. They submit that many problems arise from disregard for the current restrictions and a lack of enforcement. A few people told us that they thought the authorities that monitor and enforce liquor licensing laws are inadequately resourced for this purpose.

Mandatory evidence of age

It was suggested that licensees should be required to sight an evidence-of-age document before allowing the purchase of alcohol or entry to licensed premises. Some submitters argued that legislation should require the proprietor or venue operator to sight valid identification. We note that we have received advice that if verification of age were to become mandatory, it would be necessary to specify in the law that if a person appears to be under a particular age, such as 25 or 30 years, anyone selling or supplying liquor would be required to verify their age. If this were not specified in the law, every person in New Zealand would be required to present a prescribed form of

identification for the purpose of purchasing liquor or entering particular licensed premises. The benefits and costs of imposing such a requirement would need to be considered carefully.

Some people were also concerned about the use of fake identification cards by young people to buy alcohol from off-licensed premises and to gain access to on-licensed premises. They suggested more rigorous checking of identification is needed, and harsher penalties for fraudulent use of identification. We were, however, told that the Hospitality Association of New Zealand promotes training in a rigorous checking process, which is regularly employed by staff to verify the authenticity of identification.

Alcohol education and data collection

There was wide support from both those who support and those who oppose the bill for education to play a large role in addressing the problem of young people's drinking. However, a small number of submitters questioned the effectiveness of educational approaches in reducing youth drinking problems.

It was suggested that better strategies are needed for the collection of reliable data on youth and alcohol, such as a standard alcohol indicator on national morbidity and mortality data. Some people advocated strengthening the Government's National Alcohol Strategy. There was also support for mandatory evaluation of the effectiveness of the law, existing or new.

Drinking culture

Many people consider that New Zealanders in general have a problematic attitude to drinking, and that changing it is vital to reducing alcohol-related harm, regardless of the purchase age. People are concerned that drunkenness is considered acceptable in all age groups, and they pointed out that problem drinking is not just a young person's problem. It was suggested that an inter-agency approach is needed to tackle the problem of excessive drinking.

Recommended amendments to the bill

Purpose clause

We recommend the insertion of new clause 2B. Clause 2B(a) explains that the minimum age for certain specified purposes is increased from 18 years to 20 years. New clause 2B(b) sets out some

exceptions to the increases to the minimum age. We consider this necessary to explain in general terms the purpose of the bill.

Correcting age references in legislation

The bill as introduced fails to consistently raise the age references in several parts of the Sale of Liquor Act 1989 and other legislation. In order to give effect to the intent of the bill to raise the minimum legal purchase age to 20 years, and to provide consistency in the principal Act regarding the age at which a person ceases to be a minor, we propose several amendments. We recommend inserting these amendments in new clause 4AA(2), which amends certain definitions in section 2 of the principal Act, and in new clause 6A(1), which relates to the employment of minors in restricted areas. We also recommend inserting new clause 9B, which relates to offences involving youth drinking in a public place in the Summary Offences Act 1981, and new clause 9C which relates to the Liquor Offences (Infringement Notice) Regulations 2006.

Exemptions relating to former guardians

We recommend new clause 5(2) to allow minors to drink alcohol on on-licensed premises, but not in restricted areas, when accompanied by their former guardian (unless the guardianship in question was terminated by a court order). The concept of a former guardian is new in the principal Act, and so we recommend a new clause 4AA(1) that inserts a definition of this new term in section 2 of the principal Act. This is necessary because of changes to the status of guardianship introduced by the Care of Children Act 2004, which specifies that the guardianship of a child ends at age 18 (if it has not ended earlier for some other reason). Without a provision to cover a former guardian, a 17-year-old could have an alcoholic drink on on-licensed premises with their guardian, but upon turning 18 would be prohibited from doing so because guardianship terminates at that age. This clause would allow the continuation beyond the age of 18 of the existing exemption regarding drinking with one's parent or guardian, and we consider it necessary for consistency.

We also recommend, in new clause 6(1B), that former guardians be afforded the same exception that currently applies to parents and guardians in section 160(3)(b) of the Sale of Liquor Act. This would exempt former guardians, like parents and guardians, from the offence of purchasing liquor with the intention of supplying it to their children. Similarly, we recommend new clause 8(2) to permit

18- to 20-year-olds to be in supervised areas when accompanied by their former guardians. We recommend, in new clause 9B, that former guardians are added to the list of specified persons who may accompany minors while they are drinking in a public place. We also recommend, in new clause 9C, an amendment to the Liquor Offences (Infringement Notice) Regulations 2006 to reflect the change permitting former guardians to accompany minors in supervised areas.

Exemptions relating to spouses or civil union partners

We recommend new clause 5(3) to enable a minor to drink alcohol on on-licensed premises, but not in restricted areas, when accompanied by their spouse or civil union partner who is over the age of 20 years. We were concerned that if the clause were to be enacted as introduced, an 18- or 19-year-old who is married or in a civil union with a person who is 20 years or older would not be able to drink alcohol on any licensed premises with their spouse or partner. This situation would be more restrictive than the law prior to the 1999 amendments. We consider it unreasonable to legislate against minors drinking in all licensed premises with their spouses or civil union partners, and recommend that an exemption be provided for these circumstances.

We recommend inserting new clause 6(1C) so that spouses or civil union partners who are 20 years or over are exempt (in the same way as parents, guardians, and former guardians) from the offence in section 160(3)(b) of the Act. This would allow spouses or civil union partners of or over the age of 20 years to purchase alcohol with the intention of supplying it to their spouses or civil union partners under the age of 20 years. We recommend in new clause 9B, that spouses and civil union partners are added to the list of specified persons who may accompany minors while they are drinking in a public place. We also recommend, in new clause 9C, an amendment to the Liquor Offences (Infringement Notice) Regulations 2006 to reflect the change permitting spouse or civil union partners over 20 years to accompany minors in supervised areas.

Purchase for supply to minors

We recommend omitting clause 6(1) as it was introduced because we consider it is unworkable because of issues relating to its enforcement. As introduced, the clause removes from the offence the current requirement that at the time a person purchases or

acquires liquor on licensed premises they must intend to supply it to a minor. The removal of intent from the equation would refocus the offence on the link between purchase and supply, and create an offence when a person purchases liquor and then, at any subsequent time, supplies it to a minor. This creates an imperative to establish both the purchase and supply elements of the offence. We cannot see how this chain of events could be practically established if, for example, there were a period of time between the two actions, or if the two actions were undertaken by different people.

In addition to the enforceability issues, we note that the policy intent of clause 6 does not match the offence in section 160 of the Act. Currently, it is an offence of purchasing liquor for a minor, not supplying liquor to a minor. As introduced, clause 6 does not prevent a person supplying minors with liquor that someone else purchased or acquired from licensed premises or from home or another person. The clause may therefore in many cases not achieve its intended purpose.

We recommend a new clause 6(1), which merely preserves that part of clause 6(1) as introduced that raises the age at which a person ceases to be a minor for the purposes of the offence (of purchasing liquor for minors) in section 160 of the principal Act. The issues relating to clause 6 are complex. We recommend retaining the status quo because of the problems of enforcement, but we acknowledge that the supply of liquor remains an issue.

Supply to minors at private social gatherings

The committee does not want to make unlawful the appropriately supervised supply of alcohol to minors at private social gatherings. To that end, we recommend omitting clause 6(2) and retaining the status quo. The clause, as introduced, repeals the current exemption allowing people to supply alcohol to minors who are attending a private social gathering. We are concerned that this clause represents a major policy change, and departs significantly from the bill's intent of addressing the minimum legal purchase age. We consider that this clause would effectively move New Zealand closer to having a minimum legal drinking age, as well as a purchase age, because it prohibits any person from supplying liquor to a minor unless that person is the minor's parent or guardian. We note that the repercussions of this clause would be far-reaching and would, for example, prohibit a 19-year-old from having an alcoholic drink at a wedding reception, unless his or her parent or guardian was present.

By restricting the supply of alcohol in this way, the clause would effectively make the law more restrictive than it was before 1999.

Minors employed in restricted or supervised areas

The committee wishes to ensure that it would not be unlawful for persons under 20 years to be employed in supervised and restricted areas. To that end we recommend the following amendments.

We recommend inserting a new clause 6A(1). This ensures (among other things) that section 161(2) of the principal Act makes it an offence, subject to some exceptions, to employ persons under 20 years old in restricted areas.

It is not currently unlawful under the principal Act, however, to employ persons of or over the age of 18 years in restricted areas to sell or supply liquor, or to take part as performers in any entertainment. We therefore recommend a new clause 6A(2), to insert new section 161(3)(ab) in the principal Act. New section 161(3)(ab) ensures that it is not an offence under section 161(2) to employ persons of or over the age of 18 years in a restricted area to sell or supply liquor, or to take part as performers in any entertainment.

Even if amended in those ways, section 161 would, however, still be inconsistent with section 163 of the principal Act. Under section 163 (as amended by clause 8 as introduced), a person under the age of 20 years, if found in a restricted area (or unsupervised in a supervised area) on any licensed premises, commits an offence. The inconsistency is therefore that a person of or over 18 years of age can (under section 161 as amended by clause 6A) lawfully be employed to sell or supply liquor in a restricted area, but simultaneously commits an offence under section 163(1) just by being in that area.

We therefore recommend including, in new clause 8(3), an exception to the offence in section 163(1). The exception permits 18- and 19-year-olds lawfully to be present in a restricted area to sell or supply liquor, or to take part as performers in any entertainment, or both. We consider it inappropriate to prohibit, for example, 18- and 19- year-old band members from playing in restricted areas, and we therefore recommend an exception ensuring that their presence for that purpose would not be an offence under section 163(1).

We also recommend extending the existing exception, in section 163(3)(d), to the offence (of being found unsupervised in a supervised area) in section 163(2). This exception permits people of any

age under 20 years lawfully to be present, unsupervised, in a supervised area, for the purpose of selling or supplying liquor. The extension will ensure that the exception also expressly permits these people lawfully to be present in such an area, unsupervised, for the purpose of taking part as performers in any entertainment.

Discretion to designate remains with Liquor Licensing Authority and the District Licensing Agency

We recommend omitting clause 9(2) from the bill to preserve the status quo regarding the allocation of designations for bottle stores. The clause as introduced would have deemed all bottle store off-license premises to be restricted or supervised areas, extinguishing the possibility that the Liquor Licensing Authority or District Licensing Agency might deem such premises undesignated areas. We do not support removing the Liquor Licensing Authority and the District Licensing Agency's discretion to designate according to current criteria. We also note that the clause would create an inconsistency in the treatment of various alcohol outlets, as supermarkets and dairies selling alcohol would not be subject to the same restriction. Moreover, we consider there is no evidence to suggest that enforced designation would in any way reduce alcohol-related harm to minors.

Evidence of age documents

We recommend new clause 9A to amend the Schedule of the Sale of Liquor (Evidence of Age Document) Notice 1999 by raising the age from 18 to 20 years, and providing that the 18+ cards remain valid until their expiry. This is necessary for consistency and to ensure that existing 18+ documents remain valid evidence of their holders' age.

Transitional provision

We considered whether a transitional provision should be included in the bill to allow those who have attained 18 years of age on the day that the legislation comes into effect to continue to purchase alcohol. We acknowledge that 18-year-olds will be able to purchase alcohol and drink on on-licensed premises one day and will be prohibited from doing so the next. However, we consider a transitional provision would be essentially inconsistent with the object of the bill, which is to reduce alcohol-related harm. If the bill is to be enacted, we consider it should be done on the basis that the benefits

of an immediate change are considered to outweigh the removal of an existing right.

Appendix

Committee process

The Sale of Liquor (Youth Alcohol Harm Reduction) Amendment Bill, from which this bill was divided, was referred to the committee on 8 June 2005. The closing date for submissions was 21 December 2005. We received and considered 180 submissions from interested groups and individuals. We heard 83 submissions, which included hearings of evidence in Wellington, Auckland and Christchurch. On 30 August 2006 the committee decided to divide the bill.

We received advice from the Ministry of Justice and the Ministry of Health.

Committee membership

Ron Mark (Chairperson)

Chester Borrows

Martin Gallagher

Hon Luamanuvao Winnie Laban

Jill Pettis

Simon Power

Kate Wilkinson

**Sale of Liquor (Youth Alcohol Harm
Reduction: Purchase Age) Amendment**

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

Martin Gallagher

Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Bill

Member's Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Sale of Liquor (Youth Alcohol Harm Reduction: Purchase Age) Amendment Act **2006**.

- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent. 5

New (unanimous)

2A Principal Act amended

This Act amends the Sale of Liquor Act 1989.

2B Purpose of this Act

The purpose of this Act is—

- | | | |
|-------|---|----|
| (a) | to amend the principal Act to increase from 18 years to 20 years— | 5 |
| (i) | the age that a person must usually be of or over in order lawfully to be supplied, on or from any licensed premises, any liquor; and | |
| (ii) | the age that a person must be of or over in order lawfully to purchase, or to be sold, on or from any licensed premises, any liquor; and | 10 |
| (iii) | the age that a person must usually be of or over in order lawfully to be admitted to, and to remain in, a restricted area on any licensed premises; and | 15 |
| (iv) | the age that a person must usually be of or over in order lawfully to be admitted to, and to remain in, a supervised area on any licensed premises unless accompanied by that person's parent or guardian or former guardian; and | 20 |
| (b) | to amend the principal Act to ensure, despite the other amendments made by this Act, that— | |
| (i) | a person aged 18 or 19 years can continue lawfully to be employed in, to be admitted to, and to remain in, a restricted area on any licensed premises, while that area is open for the sale of liquor,— | 25 |
| | (A) for the purpose of selling or supplying liquor; or | |
| | (B) for the purpose of taking part as a performer in any entertainment; or | 30 |
| | (C) for both of those purposes; and | |
| (ii) | a person aged 18 or 19 years can continue lawfully to be admitted to, and to remain in, a supervised area on any licensed premises for either or for both of the purposes specified in subparagraph (i) , even though the person is not accompanied by | 35 |

New (unanimous)

- his or her parent or guardian or former guardian;
and
- (iii) a person aged under 18 years can continue law-
fully to be admitted to, and to remain in, a super-
vised area on any licensed premises for the purpose
specified in **subparagraph (i)(A)**, can begin to do
so for the purpose specified in **subparagraph (i)(B)**,
or can continue and begin to do so respectively
for those 2 purposes, even though the person is
not accompanied by his or her parent or guardian
or former guardian; and
- (c) to make related and consequential amendments to the
principal Act and other related enactments.

New (unanimous)

- 4AA Interpretation**
- (1) Section 2 is amended by inserting the following definition in
its appropriate alphabetical order:
“**former guardian**, in relation to a person (A) who is under
the age of 20 years, means another person whose guardianship
of A has ended under section 28(1)(a) to (c) or (e) of the Care
of Children Act 2004”.
- (2) The definitions of **prohibited persons**, **restricted area**, and
supervised area in section 2 are amended by omitting “18”
and substituting in each case “20”.
- (3) The definition of **supervised area** in section 2 is amended by
adding “or former guardian”.

4 Sale or supply of liquor to minors

Section 155 is amended by omitting “18” in each place where
it appears and substituting in each case “20”.

5 Exemptions in respect of other parts of licensed premises

- (1) Section 157 is amended by omitting “18” and substituting “20”.

New (unanimous)

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|------|--|----|
| (2) | Section 157(a) and (b) are amended by inserting “or former guardian” after “guardian”. | 5 |
| (3) | Section 157 is amended by omitting “Subsections (1) and (2) of section 155” and substituting “Section 155(1) and (2)”, and by adding the following subsection as subsection (2): | |
| “(2) | Section 155(1) and (2) do not apply to the supply of liquor on licensed premises (other than a restricted area) to a person (A) who is under the age of 20 years if— | 10 |
| | “(a) A is accompanied by A’s spouse or civil union partner (B); and | |
| | “(b) B is of or over the age of 20 years; and | 15 |
| | “(c) the liquor is supplied to A by B.” | |

6 Purchasing liquor for minors**Struck out (unanimous)**

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|-----|---|----|
| (1) | Section 160(1) is amended by omitting “with the intention of supplying the liquor or any of it, to any person who is under the age of 18 years”, and substituting “and supplies it to any person who is under the age of 20 years”. | 20 |
|-----|---|----|

New (unanimous)

- | | | |
|------|---|----|
| (1) | Section 160(1) is amended by omitting “18” and substituting “20”. | |
| (1A) | Section 160(3) is amended by inserting “of or over the age of 20 years” after “a person”. | 25 |
| (1B) | Section 160(3)(b) is amended by inserting “or former guardian” after “guardian”. | |

New (unanimous)

(1C) Section 160(3) is amended by inserting the following paragraph after paragraph (b):

“(ba) any other person who is the spouse or civil union partner of that person; or”.

Struck out (unanimous)

(2) Section 160(3)(d) is repealed.

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(3) Section 160(4) is amended by omitting “18” and substituting “20”.

New (unanimous)

6A Employment of minors

(1) Section 161(2) is amended by omitting “18” and substituting “20”.

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(2) Section 161(3) is amended by inserting the following paragraph after paragraph (a):

“(ab) who is of or over the age of 18 years and is employed for the purpose of selling or supplying liquor, or for the purpose of taking part as a performer in any entertainment, or for both of those purposes.”

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7 Purchasing of liquor by minors

Section 162(1) is amended by omitting “18” and substituting “20”.

8 Minors in restricted areas or supervised areas

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(1) Section 163 is amended by omitting “18” in each place where it appears and substituting in each case “20”.

New (unanimous)

(2) Section 163(2) is amended by adding “or former guardian”.

New (unanimous)

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|-----|--|----|
| (3) | Section 163(3)(d) is repealed and the following paragraphs are substituted: | |
| | “(d) who is in the supervised area for the purpose of selling or supplying liquor, or for the purpose of taking part as a performer in any entertainment, or for both of those purposes; or | 5 |
| | “(e) who is of or over the age of 18 years, and is in the restricted area for the purpose of selling or supplying liquor, or for the purpose of taking part as a performer in any entertainment, or for both of those purposes.” | 10 |

9 Permitting minors to be in restricted areas or supervised areas

- (1) Section 164 is amended by omitting “18” in each place where it appears and substituting in each case “20”.

Struck out (unanimous)

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|-----|--|----|
| (2) | Section 164 is amended by inserting the following subsection after subsection (2): | |
| | “(2AA) For the purposes of this section, all bottle store off-licence premises are deemed to be restricted or supervised areas.” | 15 |

New (unanimous)

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|-----|---|----|
| | 9A Amendment to prescribed form of evidence of age document and related transitional provision | 20 |
| (1) | This section amends the Sale of Liquor (Evidence of Age Document) Notice 1999. | |
| (2) | The Schedule is amended by omitting “18 +” and substituting “20 +”. | |
| (3) | The expression “18 +” continues to be shown on a document (and the expression “20 +” is not shown on the document) until the expiry or replacement or renewal of the document if the document is an evidence of age document— | 25 |

New (unanimous)

- (a) of the type described in section 2A(2)(d) of the principal Act; and
- (b) that was issued before the commencement of this Act.
- (4) **Subsection (3)** overrides **subsections (1) and (2)**.
- 9B Amendment to youth drinking in public place, etc, offences in Summary Offences Act 1981** 5
- (1) This section amends the Summary Offences Act 1981.
- (2) Section 38(3) is repealed and the following subsections are substituted:
- “(3) Every person under the age of 20 years commits an offence and is liable to a fine not exceeding \$300 who, in any public place and while not accompanied by a specified person (as defined in **subsection (3A)**),— 10
- “(a) drinks any intoxicating liquor; or
- “(b) has in his or her possession, or under his or her control, any intoxicating liquor for consumption there. 15
- “(3A) For the purposes of this subsection and **subsection (3)**,—
- “**former legal guardian**, in relation to a person (**A**) who is under the age of 20 years, means another person whose guardianship of A has ended under section 28(1)(a) to (c) or (e) of the Care of Children Act 2004 20
- “**specified person**, in relation to a person (**A**) who is under the age of 20 years, means another person who is A’s—
- “(a) parent, legal guardian, or former legal guardian; or
- “(b) spouse or civil union partner of or over the age of 20 years. 25
- “(3B) **Subsection (3)** does not limit subsection (1).”
- 9C Amendments to liquor offences infringement notice**
- (1) This section amends the Liquor Offences (Infringement Notice) Regulations 2006. 30
- (2) The notice in the Schedule is amended—
- (a) by omitting “18” in each place where it appears and substituting in each case “20”; and

New (unanimous)

- (b) by inserting “or former guardian” after “or guardian”;
and
- (c) by inserting “or former legal guardian, or by your
spouse or civil union partner of or over the age of
20 years” after “or legal guardian”.

5

Legislative history

30 August 2006

Divided from Sale of Liquor (Youth Alcohol Harm
Reduction) Amendment Bill as Bill 260–2A
