

Liquor and Gaming (Red Tape
Reduction) and Other Legislation
Amendment Bill - Submission 013



Foundation for Alcohol
Research & Education



**FARE's submission to the Legal Affairs
and Community Safety Committee:**
*Liquor and Gaming (Red Tape Reduction) and Other
Legislation Amendment Bill 2013*

April 2013



About the Foundation for Alcohol Research and Education

The Foundation for Alcohol Research and Education (FARE) is an independent charitable organisation working to prevent the harmful use of alcohol in Australia. Our mission is to help Australia change the way it drinks by:

- helping communities to prevent and reduce alcohol-related harms;
- building the case for alcohol policy reform; and
- engaging Australians in conversations about our drinking culture.

Over the last ten years FARE has have invested more than \$115 million, helped 750 organisations and funded over 1,400 projects addressing the harms caused by alcohol misuse.

FARE is guided by the [World Health Organisation's Global Strategy to Reduce the Harmful Use of Alcohol](#)^[1] for addressing alcohol-related harms through population-based strategies, problem-directed policies, and direct interventions.

If you would like to contribute to FARE's important work, call us on (02) 6122 8600 or email fare@fare.org.au. All donations to FARE over \$2 are tax deductible.

^[1] World Health Organisation (2010). *Global strategy to reduce the harmful use of alcohol*. Geneva: World Health Organization.



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Introduction

The Foundation for Alcohol Research and Education (FARE) welcomes the opportunity to provide a submission to the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013* (the Amendment Bill). This submission will focus on the alcohol-related components of the proposed Bill, which are considered the most problematic.


FARE strongly opposes the introduction of the Amendment Bill because it removes important measures which are in place to protect the public health and safety of the community. Measures, such as Risk Assessment Management Plans (RAMPs) are in place because there is an acknowledgement by the community that alcohol is ‘no ordinary commodity’. Alcohol is a drug which contributes to substantial harms throughout Queensland, this is why laws such as the *Liquor Act 1992* are in place to regulate the sale and supply of such substances.

Almost one quarter (23.2 per cent) of Queenslanders aged 14 years and older consumed alcohol at rates that place them at risk of lifetime harm (more than two standard drinks per day).¹ This rate is the second highest in the country, with only the Northern Territory surpassing them (29.4 per cent). 44.9 per cent of Queenslanders aged 14 years and older consume alcohol at levels that placed them at risk of an alcohol-related injury from a single occasion of drinking.² The Northern Territory again was the only other state or territory with a higher rate at 50.8 per cent.³

In 2006-07 alcohol was responsible for about 774 deaths per year of which 73 per cent of these deaths were considered premature, that is occurring in people aged less than 75 years.⁴ In 2009-10 there were about 30,000 alcohol-related hospitalisations.⁵ A 2011 analysis of emergency department presentations in Queensland estimated that there are at least 4,000 emergency department presentations per year due to alcohol-related injury. Almost one-third of all these presentations (30 per cent) occur in 18 to 24 year olds.⁶

Across Australia today alcohol is more affordable than it has been in over three decades; it is more widely available than it ever has been and it is more heavily promoted. The ways in which alcohol is sold, promoted and made available contribute to the way that alcohol is consumed and the associated harms. To counter this, alcohol-control legislation and policies to reduce alcohol-related harms should be strengthened. However, it appears that the Queensland Government is determined to act on an opposite approach and wishes to deregulate alcohol controls, rather than strengthen them.

Only three years ago the Queensland’s Legislative Assembly conducted a comprehensive inquiry into alcohol-related violence. The members of the Inquiry’s Committee; which included the now Queensland Attorney General Mr Jarrod Bleijie MP, made a total of 68 recommendations to reduce alcohol-related violence. These recommendations included amending the *Liquor Act 1992*, to provide greater emphasis on community consultation in regards to liquor licence applications. It is ironic that, the provision of greater opportunity for community consultation is exactly what this Amendment Bill is proposing to remove, through the exemption of particular licenses from preparing community impact statements and removing the requirement to advertise new liquor licence applications in local newspapers.



This Amendment Bill undoes the steps taken three years ago to introduce measures aimed at reducing alcohol-related harms. The Amendment Bill also takes Queensland alcohol policy back, rather than progressing forward with the aim to protect the community from already substantial alcohol-related harms. In determining the future of the Amendment Bill, the Queensland Parliament must acknowledge the first “Main purpose” of the *Liquor Act 1992*, as being to “regulate the liquor industry, and areas in the vicinity of licensed premises” with a view to “minimising harm, and the potential for harm, from alcohol abuse and misuse and associated violence; minimising adverse effects on the health or safety of members of the public; and minimising adverse effects on the amenity of the community”.⁷ The proposed Amendment Bill does not do this.

Most concerning is that the Amendment Bill is proposing changes that will make alcohol more easily available in schools. This will result in further exposure of children and young people to alcohol which is concerning given that they are already disproportionately affected by alcohol-related harms. The Amendment Bill will result in young people being present in environments where the sale and supply of alcohol is unregulated. This surely cannot be the intention of a Government who is concerned with the interests and public health of the community.

Recommendations

1. That the Queensland Parliament reject the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
2. That the Queensland Parliament reject the proposed amendments to Risk Assessment Management Plans within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
3. That the Queensland Parliament reject the proposed amendments to the Approved Managers Register within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
4. That the Queensland Parliament reject the proposed amendments to exclude low risk community organisations from requiring a permit within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
5. That the Queensland Parliament reject the proposed amendments to Community Impact Statements within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
6. That the Queensland Parliament reject the proposed amendments to remove advertising requirements for new licence applications from the Gazette and newspaper within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
7. That the Queensland Parliament include all new liquor licence applications online, on the Office of Liquor and Gaming Regulation website, in addition to the current requirements under the *Liquor Act 1992*.

Responses to the Amendment Bill

Amendments under the *Liquor Act 1992*

The proposed amendments are unnecessary changes that will result in the deregulation of provisions within the *Liquor Act 1992*. The *Liquor Act 1992* exists to protect the public health and safety of the community. The main purposes of the *Liquor Act 1992* must be considered when all amendments are proposed to ensure that no further harm is caused to the community as a result of the sale and supply of alcohol. The Amendment Bill does support the main purposes of the *Liquor Act 1992*.

Recommendation:

1. That the Queensland Parliament reject the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.

Exempting licensed premises from completing Risk Assessment Management Plans


Currently the *Liquor Act 1992* requires all applicants applying for liquor licenses or restricted liquor permits to complete a Risk Assessment Management Plan (RAMP). Guidance produced by the Queensland Office of Liquor and Gaming Regulation (OLGR) outlines that a RAMP needs to include detailed arrangements for: security; training of staff on Responsible Service of Alcohol (RSA); how to deal with minors; procedures on dealing with intoxicated and disorderly patrons as well as consultation with the community and liquor industry groups on the license.⁸

The Amendment Bill proposes to amend the *Liquor Control Act 1992* by inserting a new section 105A. This section (105A, also detailed under clause 133 and 134 of the Amendment Bill) proposes to exempt restaurants and cafes from the need to submit a RAMP.

This exemption would apply to restaurants and cafes that are not in restricted area communities, trade only within ordinary hours (prior to 12am) and do not provide adult entertainment. However page six of the Explanatory Notes also includes exemptions for bottle shops closing before 10pm to submit a RAMP. This reference to bottle shops is not made anywhere else in the Amendment Bill nor in the Explanatory Notes and it is unclear if bottle shops will be exempt.

All licensed premises that sell alcohol carry some risk. A monograph produced by the National Drug Law Enforcement Research Fund in 2003 on best practice strategies to reduce alcohol-related harms in and around licensed premises (the Monograph) highlighted the links between the type of licensed premise and alcohol-related harms. The Monograph found that restaurants, hotels and off-licenses in particular are correlated with malicious damage to property, whereas off-licenses, clubs and hotels are correlated with assaults and offensive behaviour.⁹

Licensees' management style and quality of management policies are important. They can either positively or adversely impact on alcohol-related problems and can contribute to unsafe and problematic alcohol-related environments.⁹ The documentation and implementation of their



strategies to deal with alcohol-related risks can and do have a direct impact on alcohol-related harms and alcohol-related crime.

RAMPs have been identified by OLGR as being “...central to good management practices” and the best avenue to assist premises in identifying safety risks and implement strategies to address these.¹⁰

All licensed premises should be required to develop a RAMP so that the management of risks associated with alcohol consumption and harms are mitigated.

Recommendation:

2. That the Queensland Parliament reject the proposed amendments to Risk Assessment Management Plans within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.

Removing the requirement for an Approved Managers Register

Currently the *Liquor Act 1992* requires all applicants applying for liquor licenses or restricted liquor permits to keep an Approved Managers Register. This Register must include names of the Approved Managers rostered on duty at the licensed premises with start and finish times for each shift. The Approved Managers Register must also contain copies of current training certificates held by approved managers and be readily available for inspection. Penalties may occur (maximum of 100 penalty units) if the Register cannot be produced.

The Amendment Bill proposes to omit the need to keep an Approved Manager Register within the *Liquor Control Act 1992*. Premises will still be required to keep copies of current training certificates and licensee training course certificates and make these available for inspection. Penalty units will also be retained.

The Approved Managers Register should be retained as it provides a mechanism by which to enforce the provisions regarding the presence of an Approved Manager. The Register ensures that licensed premises are required to have responsible and qualified personnel are at the premise at all times to manage the premises.

Recommendation:

3. That the Queensland Parliament reject the proposed amendments to the Approved Managers Register within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.



Exempting low risk community organisations from requiring a permit to sell or supply liquor at not-for-profit events

Currently under the *Liquor Act 1992*, a person is prohibited from selling liquor unless the sale is authorised under a licence or permit. Section 169 of the *Liquor Act 1992* allows community organisations to apply for a community liquor permit to sell liquor on a temporary or one off occasion. Organisations that are eligible for a community liquor permit are non-proprietary clubs, associations or not-for-profit organisations. A person or commercial operation cannot benefit from the sale of liquor under a community liquor permit. The standard trading hours for a community liquor permit are between 10am and midnight.

A community liquor permit requires an application form to be submitted to OLGR. This application requires details on the organisation, venue and event details including the trading hours, liquor consumption areas, entertainment type and the security and noise management.

The Amendment Bill proposes that ‘low risk’ community organisations be exempt from requiring a community liquor permit. Section 12 of the *Liquor Act 1992* currently identifies exemptions for the sale and supply of liquor, these exemptions include but are not limited to, gift basket businesses, retirement homes, limousine companies and the sale of liquor in a refreshment room of Parliament House. The proposed changes include community organisations in these exemptions under Section 12 of the *Liquor Act 1992*.


Under the proposed changes a community permit application would no longer be required for a community group to sell or supply liquor. The Queensland Attorney General, Mr Jarrod Bleijie has stated that

Social events are often held to raise money and schools and community groups shouldn't have to incur the cost of applying for the licences and go through all the paperwork.¹¹

The reasons described by the Attorney General and further documented in the Amendment Bill Explanatory Notes state that the type of organisations that currently apply for community liquor permits are ‘low risk’ and that the processing times associated with these ‘low risk’ permits are not warranted. However, the processing time for a community liquor permit as stated by the Office of Liquor and Gaming Regulation is “...generally processed within a week.”¹² Applications may take longer to process if the “...application is deemed high risk...”¹³ The cost of a community liquor permit is \$57 per day.

The application process for a community liquor permit helps determine if an event is ‘high risk’ and whether police and/or council endorsement is needed to approve the permit. The Explanatory Notes of the Amendment Bill state that the provisions under section 12 of the *Liquor Act 1992* “provide a clear framework to clarify how liquor can be sold or supplied without the Liquor Act applying.”¹⁴ Therefore if a person does not operate within the framework then the broader provisions of the *Liquor Act 1992* apply.

Removing the application process and replacing it with criteria under section 12 of the *Liquor Act 1992* will not ensure that the sale or supply of liquor at events run by not-for-profit organisations will



not place the community at risk of alcohol-related harms. Such community events should be subject to approval from OLGR, particularly when specific mention has been made to school-based events (e.g. school fetes), where children and young people are present. Exempting the community liquor permits for 'low risk' events will also remove the ability for authorities to monitor community events where alcohol is sold or supplied.

It is important that the licence types, including liquor permits, comply with the harm minimisation objects of the *Liquor Act 1992*.

Recommendation:

4. That the Queensland Parliament reject the proposed amendments to exclude low risk community organisations from requiring a permit within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.

Amending community impact statement requirements

Under the current *Liquor Act 1992* a community impact statement is required for all new licenses (excluding community other licence), variations of licences and if a licensee applies for extended trading hours approval on a regular basis to include trading between 12 midnight and 5:00am.

Community impact statements require information on:

- the trends on the population and demographic trends in the locality;
- the likely health and social impacts the licence would have on the population of the locality;
- assessment of the magnitude, duration and probability of the occurrence of the health and social impacts;
- the number of persons residing in, resorting to or passing through the locality, and their respective expectations; and
- the proximity to identified community groups, such as schools and places of worship - and the likely impact on those communities.

The level of the detail that is required for a community impact statement varies depending on the type of licence that is being applied for.

The Amendment Bill proposed to exempt certain licensee applicants from completing community impact statements. The exemptions will apply to premises:

located near other commercial properties that do not trade past midnight, have no amplified entertainment and where there is no discernible risk that the existing amenity in the surrounding area would be adversely impacted.¹⁵

Members of the general public and people working in areas near licensed premises can be directly affected by alcohol use and misuse. They should have the opportunity to comment on, and raise concerns regarding, applications for new licensed premises or variation to existing licenses. There is no requirement for the licensee to demonstrate that their premises will do no harm. Rather, the burden of proof often lies solely with the community member or organisation, to demonstrate that a



licence application will negatively affect their neighbourhood. It is for these reasons that community impact statements are an essential element to gauging community concerns regarding any liquor licensing and application decision.

All liquor licence types should be subject to a community impact statement. The current provisions under the *Liquor Act 1992* should be remain the same to ensure that new liquor licences, are not causing increased harm to the community.

Recommendation:

5. That the Queensland Parliament reject the proposed amendments to Community Impact Statements within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.

Reduced advertisement requirements for liquor applications

The current advertising requirements under the *Liquor Act 1992* require new applications to be advertised in the Government Gazette, newspapers and on-site notification. The aims of the advertisements are to notify the public of an application and to call for any objections to the new premises.

The Amendment Bill proposes to cease advertising in the Gazette and newspaper on the basis that advertising in the Gazette does not necessarily achieve the notification objectives for why the requirements exist. It is proposed that the advertisements will now be advertised online.


Transferring this advertising to an online format further puts the onus on community members to search for, and keep up to date with new licence applications in their communities. It should be the responsibility of licence applicants to inform local communities of their applications in as many ways as possible.

In 2010, Queensland Legislative Assembly conducted an *Inquiry into Alcohol-Related Violence*. The Committee's final report it stated that:

The Committee believes there needs to be a licensing process which places a greater weight on community consultation and input. Licences should only be granted if, on balance overall, the grant of the licence will benefit the community.

The Committee recommended that there be a "legislative amendment to ensure a greater emphasis on community consultation and opinion in the application process..." It is of great concern that the Queensland Government is now considering to reduce the ability of communities to influence liquor licensing decisions.

The Amendment Bill's proposal to reduce licence application advertisement requirements will lead Queensland down the path taken by the New South Wales Government. This is a path that favours the interests of the liquor industry and related industries – at the expense of the health, safety and amenity of local communities.



Despite alcohol policy in New South Wales being guided by the principles of harm minimisation – section 3 of the *Liquor Act 2007* (NSW) – it is apparent that licensing legislation in New South Wales takes a passive approach to enabling community input and consultation.

As it appears, a substantial proportion of licence applicants that have been subject to the random spot checks in New South Wales failed to comply with public notice requirements. It was noted by Chris Sidoti, the Chair of New South Wales Independent Liquor and Gaming Authority (ILGA), that ILGA has recently conducted random ‘spot checks’ of licence applicants’ compliance with public notice requirements. These random spot checks found that:

...of the seven premises inspected [in Balmain], three new applicants apparently did not comply with the site notice. A further spot inspection within the Sydney CBD earlier this month indicated that of six premises inspected, three apparently did not comply.¹⁶

This outcome of weak compliance leading to misinformed communities is unsurprising given that the regulatory system leaves compliance to the goodwill of the licensee and leaves monitoring and notification of non-compliance to the attentiveness of the local community.

Where communities are inadequately notified and not provided the opportunity to submit evidence and testimony, warranted concerns may be overlooked or never submitted to the relevant authorities. Such concerns could otherwise support the refusal of a licence application or the imposition of licence conditions. It is imperative that a diversity of notification channels are utilised to inform general public of licence applications.

To prevent such miscarriages of procedural fairness for communities, and to secure the objects of the *Liquor Act 1992* the current requirements for advertising new licence applications should be maintained and extended to include information regarding the application on the OLGR website.

Recommendations:

6. That the Queensland Parliament reject the proposed amendments to remove advertising requirements for new licence applications from the Gazette and newspaper within the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Bill 2013*.
7. That the Queensland Parliament include all new liquor licence applications online, on the Office of Liquor and Gaming Regulation website, in addition to the current requirements under the *Liquor Act 1992*.

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ISBN: 978-0-9875187-9-8