

Alcohol and the Law



Alcohol Fact
Sheets for
Health
Professionals

Key points:

Excessive alcohol consumption is associated with a significant proportion of crime.

A primary objective of the Western Australian Liquor Licensing Act is to minimise the harm or ill health caused due to the use of liquor.

The enforcement of the Liquor Licensing Act helps reduce the frequency of service to intoxicated people and the level of alcohol-related injuries, assaults and drink driving offences.

Alcohol Regulations

Alcohol is a potent psychoactive drug. It has the potential to cause significant harm to both individuals and the wider community.

Controls on the availability of alcohol, and regulating and enforcing relevant legislation, can help reduce alcohol-related problems such as intoxication, alcohol-related injuries, crime, violence and drink driving.^{1,2,3} West Australian studies have shown that there can be a decrease in alcohol-related road crashes and assaults in areas where enforcement is practised and servers of alcohol are trained.²

The Western Australian Liquor Licensing Act 1988 and subsequent amendments outline the rules and regulations with regard to the sale, supply and consumption of alcohol; the use of premises on which alcohol is sold; and the services and facilities provided in conjunction with or ancillary to the sale of alcohol.⁴

Amendments to the Liquor Licensing Act in May 1998 included a new primary objective to minimise the harm or ill health due to the use of liquor.⁴

Drinking and juveniles

The Liquor Licensing Act stipulates that it is an offence to sell or supply alcohol to a person under the age of 18 years on licensed or regulated premises. The penalty for this offence is up to \$5000.⁴ Regulated premises can include buildings that are not private premises on which alcohol is being habitually consumed, such as community halls, BYO restaurants, town halls and sporting clubs with permits to supply alcohol.⁴

Juveniles face up to a \$1000 fine if they consume, possess, buy, obtain or attempt to obtain liquor in licensed or regulated premises. It is also an offence for a person under the age of 18 years to enter or remain on licensed premises unless for the purpose of obtaining a meal or attending a private function (maximum fine \$2000 or \$200 infringement).⁴ Juveniles can also be prosecuted for being on licensed premises.

It is not illegal for young people to drink alcohol. However, they cannot drink in a licensed premises or a public place and if they drink in a private dwelling they require the consent of the owner of the premises. An adult who serves alcohol to a juvenile who then drinks to intoxication may be in breach of a duty of care under common law.

Responsible service of alcohol

The responsible service of alcohol is also a requirement under the Liquor Licensing Act.⁴ Ongoing training in responsible server practices, including service to intoxicated people and juveniles, is recommended as one strategy in a comprehensive approach to reducing alcohol-related problems.⁴

Civil law suits have been documented internationally where licensees have been successfully sued for serving alcohol to intoxicated people who subsequently caused harm to other people or themselves.² In recent years, civil suits against licensees have become more frequent in Australia and the need for responsible service is becoming more recognised.

Intoxication in licensed premises

Selling or supplying alcohol to an intoxicated person is an offence. A licensee or manager can be fined up to \$5000 and an employee up to \$2000 for a breach of this regulation.⁴

A licensee, manager or employee may refuse admission or remove a person from the licensed premises for being drunk, quarrelsome or disorderly; behaving in an offensive manner; or



dressing in a way that conflicts with the advertised dress standards of the licensed premises. There is a penalty of \$5000 if a licensee, manager or employee does not comply with this law.⁴

Drinking in unlicensed environments

In Western Australia, it is an offence to drink alcohol in a public place such as the street, park or beach.⁴ It is illegal for any person to consume alcohol on unlicensed premises without the consent of the owner or party in control of those premises.⁴

It is also against the law to sell alcohol without a licence. If a function or party is to be held on unlicensed premises where alcohol is intended to be sold an Occasional License is required.⁴

A person who brings alcohol into and/or consumes alcohol in any sports ground or stadium between one hour before and half an hour after any event for public exhibition commits an offence, unless consuming it under the authorisation of a liquor permit.⁴

Extended trading permits

In order to sell alcohol outside the normal trading hours a licensee must apply for an Extended Trading Permit (ETP). Following the application for an ETP, licensees are required to place a notice in the local newspaper as well as placing a notice in a prominent position outside the licensed premises for two weeks.⁴

Community members with concerns about the practices of a particular licensed premises are encouraged to resolve the issue in consultation with the licensee. Where legitimate concerns cannot be resolved, the Liquor Licensing Act outlines the process to resolve these complaints or objections.⁴

There is evidence to suggest that making alcohol more available or extending trading hours can increase the occurrence of alcohol-related problems.^{2, 6, 13} One study indicated that by increasing trading hours there was a significant increase in the number of fatal and serious injuries.¹⁵ In addition, West Australian research examined the location of assaults as stated in police records and found that nightclubs, taverns and hotels which trade late at night were high-risk for assaults in comparison with restaurants and social clubs.¹⁴

The right to complain

The Act also protects the rights of individuals living or working in communities where there are licensed premises. A Section 117 complaint about a licensed premises can be lodged by an affected member of the public such as a resident or nearby business if there is disorderly behaviour of patrons on or in the vicinity of the licensed premises, or undue noise emanating from it.⁴

The Executive Director of Public Health may intervene in proceedings before the licensing authority to introduce evidence or make representation in relation to minimising harm or ill health caused due to the use of liquor.⁴

Alcohol taxation

Federal laws determine taxes on alcohol. Taxes on a litre of alcohol vary depending on type of beverage, and are inconsistent in terms of alcohol content.¹¹

Increasing the price of alcohol is part of a comprehensive approach to reducing excessive alcohol consumption and related harm.^{1, 3}

Research indicates that when other factors remain the same, a rise in alcohol price has generally led to a drop in consumption, while a decrease in price has led to an increase in demand. As consumer disposable income rises, there has generally been an increase in alcohol consumption.^{3, 12}

Standard drink labelling

The Commonwealth Government legislates that the number of standard drinks in an alcoholic drink be displayed on the beverage container. This legislation is addressed under the National Food Authority Code. All alcohol containers whether imported to or manufactured in Australia are bound by this law.¹⁶

Alcoholic content varies among beverages. A standard drink contains approximately 10 grams of pure alcohol.¹⁶

State and local government authorities are responsible for the enforcement of standard drink labelling in Western Australia.

Drinking Alcohol and Driving



In 1997, 23 per cent of all fatal road accidents in Western Australia involved at least one driver (or rider) who was over the legal blood alcohol concentration (BAC).⁵

BAC refers to the amount of alcohol in the bloodstream. It is measured by the weight in grams of alcohol present in 100 millilitres of blood, and represents the balance between the absorption of alcohol into the blood and elimination of alcohol from the body through the metabolic process.^{6,7}

Drivers are twice as likely to cause a motor vehicle accident with a BAC of 0.05 per cent as they are with a BAC of 0.02 per cent.⁶ It is illegal in Western Australia to drive with a blood alcohol concentration in excess of 0.05 per cent. The limit is 0.02 per cent for probationary drivers.⁸

A review of literature revealed that between 33 and 64 per cent of drink-driving offenders' last place of drink was a licensed premise.²

Random Breath Testing (RBT) was introduced to Western Australia in 1988 to deter people from drinking over the limit and to detect them if they do.⁹

RBT has helped to enforce the BAC laws as prescribed under the Road Traffic Act 1974. It provides police with the power to stop a vehicle at any time and request that the driver take a breathalyser test to determine BAC. It is an offence for drivers to refuse to be tested.⁹

It is estimated that in Australia the proportion of alcohol-related fatal crashes dropped by 22 per cent and alcohol-related crashes decreased by 36 per cent in the years following the introduction of RBT.⁶

Penalties for driving over the legal BAC

Driving over the legal limits carries heavy penalties ranging from fines to disqualification from driving, or even imprisonment for repeated offences.

Probationary drivers and people who have not held a licence for more than 12 months who drive with a BAC greater than 0.02 per cent will receive a \$100–\$300 fine and automatic cancellation of their licence for three months. After this period, offenders must reapply for their licence.¹⁰

Drivers who have held a licence for more than 12 months and have a BAC greater than or equal to 0.05 per cent but less than 0.08 per cent will receive a \$100–\$200 fine and lose three to five demerit points.¹⁰

If the driver's BAC is greater than or equal to 0.08 per cent but less than 0.15 per cent, a first offence will incur a \$400–\$1500 fine or a community service order and the suspension of their driver's licence for three to six months. A second offence will incur a fine of between \$800–\$1500 or a community service order and loss of driver's licence for six months or longer.¹⁰

A BAC greater than or equal to 0.15 per cent or refusing an alcohol and/or drug test will incur a \$800–2500 fine, or a community service order and loss of driver's licence for six months or longer. A second offence will receive a \$1500–\$3500 fine or six months imprisonment, or a community service order and loss of licence for two years or longer. Subsequent offences will incur a \$2000–\$5000 fine or 18 months imprisonment and loss of licence for life.¹⁰

Alcohol-related Crime and Anti-social Behaviour

There is significant evidence that excessive alcohol consumption is associated with alcohol-related harm such as morbidity, assaults and alcohol-related road accidents.¹⁷

For the 1996/97 financial year, there were 14,671 reported violent crimes in Western Australia. More than three-quarters of the people in Australia who have committed a violent crime had been drinking beforehand. Alcohol is a factor in 60 per cent of homicides, and in nearly half of the cases the victim had been drinking with their assailants. In about one-third of cases, the victim started the fight that led to his/her death. Victims and attackers are frequently friends, and these crimes are often not premeditated.¹⁸

Studies in Western Australia and New South Wales identify violence in and around licensed premises as contributing to a significant proportion of all assaults.^{2,6,13} One study found that



in 77 per cent of public order incidents such as assaults, and offensive behaviour and language the perpetrators had consumed alcohol. Six out of 10 (60 per cent) of all alcohol-related street offences in this study occurred on or in the vicinity of licensed premises.²

The level of intoxication is one factor among many which increases the likelihood of violence occurring. Violence in licensed venues is also linked with crowding, a predominantly young male crowd, boring entertainment, cheap drinks and high levels of intoxication.²

In Western Australia, 35 per cent of reported violent crimes occur in private dwellings. However, because most violent crimes that occur in the home such as domestic violence and sexual assaults remain unreported, this figure is a low representation of violent crimes committed in domestic situations.¹⁸

A survey conducted in 1995 indicated that approximately one-third of the Australian population reported having been verbally abused by someone affected by alcohol in the past year. Nearly one-quarter of the population reported having been scared by someone under the influence of alcohol, while 13 per cent reported having had property damaged and 9 per cent had been physically abused by someone affected by alcohol.¹⁹

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