

Submission on: The Sale and Supply of Alcohol (Community Participation) Amendment Bill

To: The Justice Committee

A personal submission from: Rebecca Gilbert

12th February 2023

Tēnā koutou katoa:

This is my personal submission on the proposed amendment to this Bill. I strongly feel that it is time to make amendments to this current bill in recognition of the devastating health impacts that the current bill has on our vulnerable and at-risk communities more importantly our Māori whānau hapū and Iwi. The readily availability of cheap alcohol situated in our communities where our children gather to learn and play, where our kaumātua and kuia also frequent along with the barriers for community action to challenge alcohol licencing has always been difficult to improve alcohol harm on many levels. As a kaimahi Māori working in Cancer prevention I am ever mindful that many lives are harmed and lost from alcohol-attributable cancer and that stronger alcohol regulation is desperately needed to minimise the incidence, impact, and inequities of cancer in Aotearoa.

Supportive of the Cancer Society recommendations

As a kaimahi Māori of the Cancer Society, and more importantly a grandmother to my two mokopuna I support the proposed changes set out in the Sale and Supply of Alcohol (Community Participation) Amendment Bill below. I also believe the Cancer Society submission aims to contribute to a more meaningful expression of participation to voice national regional and local views about preferences on alcohol licencing decisions. The submission relates to Part 1: Amendments to principal Act. These changes will align more closely with the intent of the Sale and Supply Act and will help meet its objectives. The support for;

- a. The removal of the provisions for appeals against Local Alcohol Policies (LAPs).
 - b. The removal of unnecessary formality at hearings, such as cross-examination.
 - c. The ability for anyone to object to an alcohol licence.
- is key to this, and the Cancer Society submission.

The Cancer Society also recommend considering:

- a. Further measures be added to the Bill to ensure greater Māori engagement through imbedding Te Tiriti into alcohol legislation and doing so in partnership with Māori.
- b. A wider review of alcohol regulations to address alcohol pricing, advertising, and availability in line with the WHO, Best Buys¹. This review also needs to consider ways to curb the rapid growth of online alcohol sales currently further impacting alcohol use.

Alcohol causes cancer.

Alcohol is a proven but preventable cause of many cancers². Alcohol increases the risk of cancers of the mouth, pharynx (throat), larynx (voice box), oesophagus, bowel, liver, and breast (in women).

Any regular alcohol use (even small amounts) can increase the likelihood of cancer. The more alcohol the greater the risk of developing cancer. Additionally, combining alcohol and tobacco use

increases cancer risk further and its high energy content increases the risk of 12-13 weight-related-cancers³. There is no safe minimum level of alcohol use in relation to cancer.

In Aotearoa, 2020, an estimated 943 cancers including 367 colorectal, 264 breast and 99 oral cavity cases were attributed to alcohol⁴. In 2016, an estimated 6.6% of cancers deaths were attributable to alcohol⁵. Māori are disproportionately affected by alcohol-attributable cancer with Māori 2.5 times more likely to die than non-Māori and suffering a greater average loss of healthy life than non-Māori⁶.

Despite alcohol causing considerable harm such as cancer it has become normalised and readily available, affordable, marketed in our neighbourhoods⁷⁸⁹¹⁰. This is even more so in poorer communities¹¹¹². Intergenerational experiences of colonisation, discrimination, and inequity in these structural and environmental factors have contributed to Māori being more burdened by alcohol-attributable cancers¹³¹⁴.

The evidence-based population strategies such as those outlined in the 3rd edition of Alcohol: No Ordinary Commodity¹⁵ to address the unequal alcohol accessibility and its cancer harm¹⁶¹⁷ is key to supporting this Bill. Consideration for the Wai 2575 claim¹⁸ and opportunities for greater Māori engagement to help build the best priorities and solutions to address equity and Pae Ora (healthy future) for Māori is recommended.

Licensing systems such as Local Alcohol Policies (LAPs) are an important part of the regulatory framework that can help address alcohol availability such as outlet density and opening hours. Despite intentions of the Sale of Liquor Act (1989) and calls from 2010 Law Commission and local government¹⁹ for TLAs to be required to develop a LAP to ensure community input into licensing decisions, this has not been eventuated. Barriers for communities to have a meaningful say on alcohol decisions have since been undermined and even more significantly for Māori communities²⁰. Maynard's Te Tiriti o Waitangi and alcohol law report recommends considerable change of the alcohol regulatory system to become Tiriti-consistent and achieve equity. This Bill is an opportunity to put more robust regulation in place to protect consumers especially more vulnerable communities from affordable and accessible alcohol and its harms.

[I support the Cancer Society's specific recommendations as stated below.](#)

That all the measures in this Bill the specific recommendations of the Alcohol Healthwatch submission²¹ are strongly considered based on the following views of the proposals and specific recommendations

The Sale and Supply of Alcohol (Community Participation) Amendment Bill, specifically consider:

a. The removal of the process of appeals against LAPs

- i. Communities (via local Councils) should be able to have a voice about alcohol sale and supply in their area.
- ii. Community voice will no longer be undermined by the threat of costly appeals from alcohol suppliers and distributors.
- iii. This will make it easier for Councils to enact LAPs which will lessen alcohol-related harm.
- iv. More LAPs will relieve communities, especially low-income communities, from holding the burden of proof of harm in licensing hearings.
- v. More LAPs will make it easier for alcohol licences to be turned down.
- vi. There is no justification for the appeals process being provided only for LAPs when it is not provided for other council policy processes.

Recommend

- Making it mandatory for TLAs to develop a LAP.
- Improving input from Māori into LAPs as recommended by Maynard²².

b. The removal of unnecessary formality at hearings, such as cross-examination

- i. Community members have reported the process of cross-examination is intimidating, threatening and overly technical.
- ii. Community participation has been discouraged by the fear of being cross-examined.
- iii. There can be a power imbalance in legal representation when licencing applicants hire very experienced lawyers while community members may not have access to equivalent lawyers.
- iv. Community member's ability to make a strong, cohesive case may be reduced in an intensive cross-examination in a legalistic environment.
- v. Cross-examination is not allowed in other similar government hearings like Resource Consent Hearings or Tenancy Tribunal.
- vi. We support virtual attendance at hearings (eg Zoom meetings).

Recommend:

- Increased training for District Licensing Committees
- Holding meetings at accessible community locations
- Providing a hearing timetable
- Making a more accessible pathway for people to object
- Support tikanga and Te Reo Māori.

c. The ability for anyone to object to an alcohol licence

- i. There is concern about the difficulties facing community members and organisations in obtaining "standing" even if they are experts in health or living near the site of the alcohol outlet.
- ii. The opportunity to object to a licence application should exist for people who have a genuine concern for the area, whether they live near the premises or not.
- iii. The harm from off-licence applications can be felt further away than for on-licence applications, another reason anyone should be allowed to object.
- iv. In alignment with Te Tiriti o Waitangi, Māori rights, culture and practices should be considered when deciding who can object.
- v. There needs to be more community input into licencing decision-making, without restrictions on who can object to a licence.
- vi. Community participation and equity is encouraged by allowing anyone to object to a licence.
- vii. It is unlikely that applications will be overrun with objections as committees have the power to exclude objections.

Recommend:

- Allowing anyone to object to an alcohol licence.

The Cancer Society strongly recommend

1. Implement strategies to support and improved community participation ensuring that manawhenua and tangata whenua representation is guaranteed in alcohol licencing decisions¹¹ and a clause recognising the rights of Māori under Te Tiriti o Waitangi be embedded in the Act²³²⁴.
2. A wider regulatory review of alcohol marketing and sponsorship, alcohol prices, monitoring and enforcement of alcohol licences and the minimum purchase age for alcohol.

In closing I also endorse submissions from;

1. Alcohol Action NZ
2. Communities Against Alcohol Harm

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