

Alcohol Reform Bill

**Submission of the
New Zealand Police Association**

**Submitted to the
Justice and Electoral Committee**

18 February 2011

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About the New Zealand Police Association

The New Zealand Police Association (the Association) is a voluntary service organisation representing nearly 8,700 sworn police members across all ranks. The Association also represents more than 2,500 non-sworn members, who carry out invaluable support roles across the full spectrum of policing. Members are generally very active in engaging in debate and discussion within the Association on matters relevant to policing. The high engagement level of the membership is critical to the Association's ability to speak and act credibly on behalf of members.

In putting together this submission, the Association has consulted with members who have first-hand experience in the matters addressed by this Bill.

Introduction and general comment

1. The Police Association welcomes the opportunity to submit on the Alcohol Reform Bill. Problems associated with alcohol misuse have a major impact on members in both their professional capacity, and as members of the communities affected.
2. There is long term statistical evidence in Police's *National Alcohol Assessment* showing alcohol consumption accounts for a large percentage of the offences, accidents and general anti-social behaviour requiring Police involvement. These statistics are reproduced in the Law Commission discussion paper *Alcohol in Our Lives* which preceded this Bill and also the Regulatory Impact Statement accompanying the Bill. Time spent dealing with these incidents is time that Police could otherwise be spending responding to and investigating offending which at present is not able to be addressed within available resources.
3. However, statistics only tell part of the story. Due to the nature of police work, our members deal with the 'human face' of alcohol over-consumption and abuse on a daily basis. This includes dealing with abusive drunks; drunken disorder; drunk offenders; drunk victims of crime or people who are vulnerable to crime because of their drinking; and casualties of drink-driving crashes.
4. Consequently, police officers have an acute and genuine concern to see alcohol-related harm reduced, which is borne of their personal on-the-job experience, where they see a level of harm most New Zealanders do not. They are also able to identify, based on their experience, the major shortcomings of the current regulatory environment, and the areas where changes would be most likely to have a significant positive impact.

5. The key issues in liquor regulation of concern to Police Association members are:

- **Purchase age:** Virtually all members believe the purchase age should be raised, with the vast majority of members favouring a single purchase age of 20 years old. The split age proposal contained in the Bill is likely to be viewed as a step in the right direction.
- **Hours of trade:** Hours of trade should be restricted (particularly for off licences) to reduce the incidence of already-intoxicated people 'topping up' with cheap off licence liquor. The national maximum hours proposed in the Bill are somewhat more permissive than members would prefer; however the real concern is that the Bill allows these to be further extended by Local Alcohol Policies.
- **Parental supply:** There needs to be greater regulation controlling the purchase of alcohol by parents, which is later consumed by children and/or their friends in an un-supervised environment. The measures contained in the Bill are encouraging in this regard.
- **Licensing:** The existing exemption for Police bars must be maintained. There are sound policy reasons for doing so, to provide a safe place for police to socialise, and no demonstrable benefit would offset the costs of bringing such bars within the regulatory regime applying to commercial sale/supply of liquor. We welcome the Bill's intention to retain the exemption.
- **Enforcement/penalties:** Police need wider authority to close premises immediately, where the situation warrants it. We welcome the provisions to that effect contained in the Bill. We also support the Bill's proposal to allow for greater use of infringement notices to deal with a range of offences, including for breaches of liquor bans. While we note this issue has attracted some controversy, the practical benefit of such a measure through freeing up police and court time is potentially considerable.
- **Drink-driving limits:** The permissible blood alcohol limit for adult drivers should be reduced to 50 mg/100 ml of blood. We recognise that issue is outside the scope of this Bill, however it remains an issue of serious concern to members.

6. In April 2009 we lodged a submission with the Committee on the Sale and Supply of Liquor and Liquor Enforcement Bill. That submission also contained comment on these key issues.

Regulation not the whole answer

7. We would caution that as a nation, we must not fall victim to the mistaken belief that it is possible to legislate our way out of our problems with alcohol. Regulation and enforcement have a role to play in modifying social behaviours, but if these efforts are out of step with New Zealanders' underlying expectations and judgements of what is acceptable behaviour, then we will simply create a situation where the authority of the law is undermined through being routinely flouted. We need to be conscious of that fact in striking the right balance as we tighten the law through this Bill.

8. We also need to be careful not to replace one ill with a much greater evil. There is a very real risk that overly strict controls over lawful supply of alcohol will fuel a black market to satisfy demand. Without having to point to the extreme of the US prohibition-era experience, the New Zealand experience of licensing trust monopolies in some areas, such as Masterton in the 1970s/80s, was that organised criminal gangs were able to expand their sphere of influence through illicit liquor supply. This was achieved both through gang-run 'club house' bars and drinking events at gang-organised and supplied parties, and also through sly-grogging. Giving organised crime a further vehicle by which to broaden and entrench their presence and relationships within wider society would be extremely detrimental, as such groups leverage supply of illicit goods into more insidious and harmful actions of standover, loan-sharking, debt collection, extortion, intimidation, and corruption.
9. In that context, retention of the provisions around use of an unlicensed premises as a place of resort for the consumption of alcohol (**clauses 216-219**) is extremely important, and we are pleased to see those provisions carry over in this Bill.

Purchase age

10. **Clauses 9 and 10** propose a split age, effectively raising the age to 20 for off-licence purchases.
11. Research company Nielsen conducted a survey of members for the Police Association during August 2010. More than 6,300 members currently serving across the full spectrum of police roles, both sworn and non-sworn, completed it.
12. One of the questions asked in our survey was whether members believed 18 or 20 is a more appropriate drinking age. Virtually all (87% in total) favoured raising the age of purchase in at least some circumstances. 17% favoured the split age approach proposed by the Bill. However an overwhelming majority of respondents (70%) believed the age should be raised to 20 for both on- and off-licence purchases.

Table 1

<i>Which of the following best describes your opinion on lifting the drinking age from 18 to 20 years of age:</i>	
Support leaving the drinking age at 18 for both on licence and off licence premises	12%
Support the lifting of the drinking age to 20 for off licence premises only	17%
Support the lifting of the drinking age to 20 for both off licence and on licence premises	70% ¹

13. Anecdotal feedback from members further supports the survey results. For example one member commented that lowering the drinking age in 1999 was

¹ Total does not add to 100% due to rounding.

“a big failure causing more harm than good to communities.” This is typical of views expressed.

14. Anecdotal member feedback on the ‘split age’ approach suggests such a change would be viewed as a step in the right direction, notwithstanding that members would strongly prefer a purchase age of 20 across the board. On-licence premises can generally be categorised as supervised environments, albeit that the quality of supervision can vary widely. Overall, the split age was thought to be workable as, in one member’s words, “most bar managers have got the message and are more responsible now than in years gone by.”

Hours of trade

15. The recent trend in trading hours has been towards 24-hour alcohol availability, or close to it. In the policing experience it is inevitable that, whenever and wherever alcohol is made available, patrons will seek to access it. Simply reducing the hours that alcohol is sold through earlier closing would effectively limit the overall availability of alcohol during a time of day when alcohol over-consumption and abuse is at its worst, without unreasonably impacting on responsible drinkers.
16. We are aware that Police has gathered firm statistical evidence of this fact. A reduction in hours of trade in Timaru from October 2007, by closing all bars at the earlier time of 3 am across the board (rather than allowing 5 am closing at some bars and 24 hour trade by one premises), resulted in an 8% reduction in violent crime over the following 12 months, with no evidence of displacement of this crime.
17. Most alcohol-related trouble occurs later at night. It is generally later at night when customers who are already intoxicated try to continue a binge, either in a bar, or from a late-night liquor store. Inner-city late night liquor stores also allow cheap ‘pre-loading’ either before or between bar visits. Suburban late night liquor stores allow ‘topping up’ after a person has already consumed all the alcohol they had planned to drink in a binge. This contributes both to domestic violence and street disorder, including that perpetrated by young people who have been drinking or are drinking in suburbs with a relatively lower police presence, outside central city/CBD liquor ban areas.
18. Restricting trading hours and reversing the trend towards 24-hour availability will inevitably lead to industry claims that loss of business will result. However, we would observe that nobody has an unfettered right to sell alcohol in New Zealand. Our licensing system is designed to regulate business activity involving the supply of alcohol in a way that balances commerce with the public interest. The potential social benefits from restricted hours of trade, in reducing alcohol-related harm, are significant and outweigh any business interest in selling more alcohol late at night to patrons many of whose judgement is already significantly impaired by alcohol. So long as there is consistency in approach, and a generally level playing field between licensees, we do not believe any retailer would be unreasonably disadvantaged. Neither do we believe that responsible late night purchasers

of alcohol, such as late night supermarket shoppers, will be unfairly or significantly inconvenienced.

19. The default hours of trade proposed by **clause 44** could in our view be tightened. We do not believe anyone would be unreasonably disadvantaged by requiring on-licence premises to close by 3 am and off-licences by 10 pm. There are few reasons (other than pre-loading/topping-up binges) to buy alcohol from an off-licence after 10 pm; and closing on-licences an hour earlier would reduce access to the poorly judged 'last drink' which so often leads to trouble.
20. However, we are more concerned that the Bill allows Local Alcohol Policies to override the default maximum national trading hours and further extend local hours of trade (**clause 46**). As a result, local authorities are likely to be subjected to lobbying pressure to adopt longer maximum hours. We can envisage elements in the liquor supply industry arguing that while the default national maximum hours might be appropriate 'in most cases', Local Alcohol Policies should allow room for longer hours 'in special cases'. This will simply enable a continuation of the current trend towards 24-hour supply. Applying the default hours as the maximum permissible under the law, unable to be extended by Local Alcohol Policies, would ensure more effective and nationally consistent control over this issue. Given the Bill's relatively late default closing times (11 pm and 4 am), there ought to be more than sufficient 'headroom' in the national maximum trading hours to render it unnecessary to allow Local Alcohol Policies to further extend them.

Parental supply

21. We recognise that parental supply of alcohol is a controversial issue. However, the present law does not appropriately balance the rights of parents with the responsibilities of adults, who supply alcohol to under-age drinkers, to play a reasonable role in minimising the harm that alcohol may cause.
22. Currently, significant disorder issues requiring police intervention are associated with 'private social gatherings' attended by dozens or hundreds of under-age drinkers, the majority of whom are drinking alcohol supplied to them by parents, parents of friends, or other older people who have lawfully purchased the alcohol.
23. We support the approach taken in **clause 224** on this issue, and in particular the requirement that the person "supplies the alcohol in a responsible manner". Such a change would reinforce that adults who supply under-age people with alcohol must share in the responsibility for the consequences. The stated considerations [**cl 224(4)**] to be used in determining whether alcohol supply was responsible, such as whether consumption was supervised, may also serve to draw more parental attention to the issue, and prompt more thought as to what is reasonably expected of a parent or adult who supplies alcohol to a minor.
24. The Association has no wish to legislate against parents who allow minors to consume alcohol responsibly under their direct supervision, and indeed it is

often argued that such is a key part of developing responsible attitudes towards alcohol. However, officers do need to be provided with powers allowing them to better police those parents who are acting irresponsibly in this respect: for example, where the issue of supply has come to police attention as a result of a direct complaint, or serious disorder associated with an out-of-control party or other criminal activity where alcohol has been a major factor. **Clause 224** should provide a means to take action against the worst offenders in this regard.

Licensing

Police involvement in licensing process

25. We welcome the continued role of Police in the licensing process as described at **clause 98**. Although there is an administrative cost to Police in being part of the licensing process, it is important to have police staff involved in the assessment of licence applications. As well as enabling Police to oppose licences where information known to Police shows the applicant to be clearly unsuitable, through being part of the process, officers are able to gather information on would-be licensees and their premises. This information is valuable in better monitoring and protecting patrons in the future.

Local Alcohol Policies

26. Areas with a large number of liquor outlets in close proximity to each other are a concern for police. While it is probably the case that, if alcohol is available for sale in the community at all, consumers will attempt to access it whether it is sold at one shop or three, an overabundance of alcohol outlets in one area inevitably leads to the attitude that if one outlet is closed, or refuses to sell a person alcohol, the one down the road will supply instead. This may negatively influence the behaviour both of clients and retailers.

27. Local Alcohol Policies have the potential to give a greater level of control over licensing back to the community. This may result in reduced liquor outlet density, and help reduce alcohol-related harm.

28. However, reducing outlet density alone is not the answer. Density of outlets may have some bearing on the total amount of alcohol consumed in the community, and on the ability of a young person, or a drinker who is already intoxicated, to access alcohol. However in terms of accessing the 'last drink' that leads to trouble, we believe the bigger factor is hours of trade. For that reason we do not support the ability for Local Alcohol Policies to override, by extending, the default national maximum trading hours.

29. As alluded to earlier in this submission, allowing hours of trade to be extended by Local Alcohol Policies risks allowing the issue to become highly politicised at a local level. It is conceivable that the liquor industry could over time become a major influence on local body politics to the extent that corruption issues may begin to arise.

30. We are also disappointed that the licensing matters able to be set by Local Alcohol Policies are very narrowly restricted by **clause 77**. While the clause allows Local Alcohol Policies to include policies on any matter not relating to licensing that is relevant to the object of the Act, the clause allows that only one-way door restrictions and trading hours can be considered as a licensing condition within a Local Alcohol Policy. This excludes other potential conditions that could reduce alcohol-related offending and harm, such as specified number of door staff and the use of CCTV cameras. These, plus other conditions are likely to be advocated for by Police at the local level and in absence of a mechanism through Local Alcohol Policies would have to be discussed individually in relation to each licence granted. It would be far more efficient, transparent and equitable if Local Alcohol Policies were able to set what would in effect be default licensing conditions for premises within a defined area, or of a defined type. Such standard local conditions have a real potential to respond to local problems and reduce alcohol-related harm and disorder in an extremely efficient manner.

Police canteens

31. We support the continuation of the existing exemption of Police canteens (usually better known as Police bars) from the licensing regime (**clause 14**). While the clause also continues the exemption for Fire Service and Defence canteens, it is important for the Committee to appreciate the justifications for the exemptions are different in each case. The factors requiring the exemption for Police canteens are unique to Police.
32. Police bars play a vital role in giving Police staff (particularly constabulary staff) and their families a safe place to socialise together, away from the general public. It is an unfortunate reality that there is a sizable and highly vocal minority of the New Zealand public who harbour an irrational dislike for police officers. Those people subject individual police officers to routine harassment and abuse, ranging from name-calling, taunting, vitriol, spitting, through to physical confrontation. This treatment is endured both on and off duty.
33. In environments like public bars, taunting can extend to deliberate 'bumping', spilling of drinks, and various other relatively minor but deliberately aggravating acts that at the very least destroy an officer's ability to enjoy their social activity, and at worst may prompt a more serious confrontation that can have criminal consequences for both parties. The risks of such confrontations are very much higher in bars than elsewhere, both because alcohol may affect the judgement of all involved, and because officers' families may be targeted with offensive comments designed to provoke the off-duty police officer.
34. We recently asked members to recount real-life experiences of drinking in public bars, in order to give Committee members some understanding of the reality facing police officers off duty. The following are just a selection of the responses, with the names of individuals, bars and places removed. They are typical of the experiences of many police, particularly in provincial towns and cities:

"My flatmate (also a Police Officer) and I were drinking at a newly opened bar shortly after returning from 3 months leave abroad. This was an up market bar and certainly did not encourage the criminal fraternity. We were drinking with a civilian female (who happened to be the girlfriend of one of our colleagues) when we were approached by a group of 4 - 5 well known local criminals who told us that unless we expected problems we should leave 'their bar'. When we refused to leave they congregated around us for some time until we finished our drinks and left the bar. It was certainly done to intimidate us because we were Police. It was also a tidy and up-market establishment - not one of the local public bars where you could expect to experience problems."

"I had always been cautious about drinking in public because of being easily identified as a local officer. I was standing at the bar talking to a friend when a woman in her late 30's approached and said she recognised me as a cop, she then went on to tell me that I had processed her for drunk driving some months before and she was obviously pretty upset about this. She was well dressed and clearly not just some local crim who wanted to have a go. I told her that I was off duty and didn't want to discuss the matter and told her to go back to her friends. She did walk away, about half an hour later she came up behind me and tipped a glass of water down my back, she pulled my shirt collar out to do this. I was pretty brassed off about this and told her to go back to her friends who were all watching and laughing at her actions and at me. I kept my cool and told her that she had had her fun and now she should just go away. She left, but not happy with this she returned about half an hour after this and tipped a glass of red wine down my back. At this point I asked the bar staff to call the Police, they attended and arrested her and charged her with intentional damage, much to my disgust as she should have been charged with assault. All she was asked to do was pay for my dry-cleaning and the charge was withdrawn."

"I was sitting at the bar with friends when a Highway 61 gang member came up to me and called me a piece of s**t pig. I told him what I thought of him, his mates held him back and my mates did the same with me or a fight would have erupted immediately. I knew this guy but had never dealt with him that I am aware of. My mates and I left the bar straight away and asked the doormen to make sure the Highway 61 guys didn't follow us. We went to [another] bar which is about 100m away and advised the doormen there what had happened and asked that they do not let these guys in if they turned up. We had only been there about an hour when these guys did turn up, they came directly at us and were in attack mode. There were two of them, I grabbed one and my mate grabbed the other, one ended up unconscious. The doormen took over and kicked them out and we left shortly afterwards with no complaints. I gave up going to local bars after this."

"On one occasion I had a large rock thrown through the front windscreen of my vehicle which I had parked in the hotel car park. I later heard who was responsible (local drug dealer) via the network."

"I was assaulted at [a bar] just after midnight ... This was unprovoked and was a punch to the head, I was sober as I was the sober driver. Very, very disappointing."

"This has happened to me a few times. Been called pig, I smell bacon comments. I always seem to get the smart ass police comment when I go out now and again. Thankfully most people around here don't bother you but it happens now and again. What annoys me the most is when you are out and a fight happens and people expect you to do something. Earlier this year at the local RSA club I had to throw a guy out for fighting. You probably remember the time a few years ago when I got bottled at the [local rugby] club. Same reason."

"In early 2007, some friends had recently returned from overseas and we (me and two others) were having a beer and a game of pool at [a bar] in town. We decided we would walk down the road and catch a taxi home. We walked past [a local business] and I witnessed [a known local offender] and three of his mates kicking over road signs and throwing them across the road etc etc. Needless to say as we walked past they immediately identified me as a 'pig' and started the usual drunken banter. I just want to reiterate that I didn't approach or try to deal with them throwing the street signs and cones, I was happy to just walk past and leave it be. [The offender] and two of his mates approached me and my friends and begun being verbally abusive. I took it with good grace and kept walking. They persisted and got in front of me and my two friends stopping us from passing. By this stage I told them to buggar off. It was obvious from [the offender's] body language and state of intoxication that he was trying to bait me into something. I mainly spoke to him, but looked over and saw his associates punching at

both my friends. At one point one hit my friend in the head with a bottle of some description (didn't break). At which point to prevent any serious harm or GBH (bottle) coming to my friends, I had to take immediate action against [the offender] and the 2 of his friends involved in the confrontation. Needless to say it was a quick sort from my point of view, but the point is I would have much rather not been involved in the matter at all, and it makes me very reluctant to go out and have a couple of beers with friends, to the point of me not going out at all."

"I was at [a bar] with friends on Boxing Day, we have a bit of a tradition of all the friends who are around the country catch up on Boxing Day due to everyone being back for Christmas. I was waiting outside with a friend, and about to head home. [A known offender, who is a convicted rapist and gang prospect] approaches me, walks up toe to toe. Starts saying 'Finally got you off duty pig s**t, you're not so tough now'. He continues with a tirade of abuse and threats directly at me, asking me if I want to go down a nearby alley to fight him. Needless to say a pretty embarrassing situation considering there is a large crowd around including some good friends of mine. [The offender] directly targeted me only because I am a police officer and I have arrested him previously. Eventually, using a great deal of self restraint I walk away. I inform two passing on duty officers who state that [the offender] had been causing problems all day and he was subsequently arrested. When he was searched, he had a large buck knife amongst his property. Looking back now, I recall him having his hand in his pocket the whole time he was making threats and abusing me."

"There have been numerous occasions where I have had snide remarks etc made while I have been out. I recall on one occasion having to help staff eject an extremely intoxicated man from their bar as they recognised me as an off duty officer and I could assist. Now, I have no problem with this, but still, it just goes to show you are never really 'off duty' in a sense. To be completely honest I don't go out much [here] at all due to being recognised and harassed by people you deal with during the week."

"I stopped socialising in bars at night some years ago (1993), unless it is a very special occasion ... Over the years I have had several instances of being targeted by drug dealers and or the odd disgruntled criminal. These included being stepped out by a local drug dealer and his knife carrying associate from a rugby league function in a local pub, having two criminals waiting for me in the car park of a local hotel with softball bats while hiding behind my parked car, having 2 drug dealers follow my wife and I from a popular central city hotel into a restaurant and then having one of them stare at me whilst holding his steak knife and concealing it up his sleeve before the both of them approached our dinner table with their knives."

"I saw [a known offender] in the pub probably 6 years [after arresting him] and he had a mate (both high on drugs and [his mate] a kickboxer and former national title holder) and they tried to kick down the toilet door when I was in there. They were after a fight in revenge for how [the offender] had been arrested by me years earlier. It required Security and bar staff to stop it all going off."

35. The majority of police officers are relatively thick-skinned and become somewhat accepting of the abuse they receive from some members of the public on virtually a daily basis while at work. They accept that this is one of the personal consequences they endure for their service to society. The *quid pro quo* is that society currently recognises that personal cost by ensuring police officers are able to enjoy their right to socialise off duty, without enduring such abuse, through the provision of Police bars.
36. Forcing police to drink at public bars would also mean police become patrons, off- duty, of the bars and licensees they are required to police while on duty. This potentially exposes officers to difficulties and allegations of perceived favouritism or inappropriate dealings when being seen policing a bar in which they are a regular patron while off-duty.
37. While ending the exemption under the Sale of Liquor Act is not the same thing as abolishing Police bars, the practical reality is that without the exemption,

the continued existence of the vast majority of Police bars would be impossible. Currently, the exemption means that Police bars are able to operate relatively inexpensively. Removal of the exemption would impact seriously on the viability of such bars. This is because turnover is far too low to meet the compliance costs (such as having a manager on duty) of a licensing regime that is essentially designed to regulate the commercial supply of liquor.

38. Some commentators have argued that 'Police should comply with the law they enforce.' This simplistic argument glosses over the reasons why we have a liquor licensing regime at all. Like any regulatory regime, liquor licensing is intended to constrain the behaviour that would otherwise take place in an unregulated market. In other words, if those selling alcohol were not constrained by licensing conditions, their profit incentive would be to sell as much alcohol as possible, to as many people as possible, regardless of the consequences for the drinkers or the wider community. Licensing regime provisions such as not selling to minors, not selling to intoxicated people, and ensuring there is food available, are all designed to temper that outcome. Compliance with licensing conditions is enforced by a penalty regime based (in the main) on fines and licence suspension: both measures which essentially provide a financial or business disincentive against breaches. While any regulatory regime has compliance costs, the public benefit is deemed to outweigh those costs, and they simply become part of the business overheads.
39. The supply and consumption of liquor in Police bars is controlled, to higher standards than apply in commercial bars, by means other than the licensing regime, which are more appropriate to the context of the liquor supply. Those include that every Police bar must have an approved host responsibility policy (including provisions which mirror licensing requirements). Compliance of Police bars, and their patrons, with those requirements is enforced through oversight by managers, Area and District Commanders, and the Commissioner. Unacceptable behaviour can lead to disciplinary action under the Code of Conduct, which may be career-threatening. The standards demanded of patrons, and especially the consequences of misbehaviour, are therefore much higher in a Police bar than in a public bar, where an unruly patron is likely (at the most) simply to be ejected.
40. Because the supply of liquor and enforcement of responsible supply through Police bars is already effectively regulated by these mechanisms, there would be no benefit from bringing them under the standard licensing regime and imposing compliance costs which could not be met, and would inevitably lead to the closure of Police bars.
41. All of these issues are particularly acute in provincial and rural communities, where police officers are well known in their communities and easily identified both on and off-duty. Police in larger cities are more able to frequent public bars with relative anonymity. Yet ironically, Police bars in bigger cities, with larger staff numbers, would be the bars most likely to be able to survive a removal of the exemption.

42. Removing the exemption for Police bars would likely lead to the closing, over a period of time, of many if not all Police bars. This would in turn force police officers to socialise in public, exposing them to the risks of unpleasant and potentially career-threatening confrontations, as well as potential perceived integrity risks in policing bars which they frequent as patrons whilst off duty. We are pleased that the Bill proposes to continue the exemption, and would urge the Committee to endorse that continuation in its report to the House.

Enforcement/penalties

43. The drinking environment in New Zealand has changed markedly in the last 10 years. The tools currently available to police for dealing with the problems arising from alcohol over-consumption and abuse do not adequately reflect this change in our drinking culture. The Bill proposes some welcome additions to the police toolbox in this regard.

RTDs

44. We believe ready-to-drink pre-mixed drinks (“RTDs”) have been a major contributor in recent years to increasing problems with excessive alcohol consumption, particularly where young drinkers, and especially young women, are concerned. This is because the nature of the mixes is such that the alcohol content is entirely arbitrary, and regardless of how much alcohol is present, the drinks are able to be made palatable through equally arbitrary high sugar content and artificial flavouring. RTDs are, in our view, ‘designer drinks’ designed primarily if not solely to appeal to young drinkers whose palates are accustomed to sugar-laden soft drinks.

45. Compounding the appeal to young drinkers is the fact that such drinks are extremely cheap to manufacture from cheap bulk components, many from the foodstuffs industries. RTD manufacturers do not face the same production overheads inherent in the growing of grapes and production of wine, brewing of beer, or distillation and maturing of a spirit. Anecdotally, the consequent relatively low price and easy-drinking nature of the products leads many young consumers to differentiate the drinks mainly on the basis of ‘bang for buck’, which in turn drives the industry to produce ever-higher alcohol drinks (masked by increasingly high levels of sugar and strong flavourings).

46. The Association is therefore pleased to see the Government’s intention to regulate the alcohol content and size of RTDs. We understand the intention is to regulate such drinks to a maximum alcohol content by volume of 5%, and a maximum size of 1.5 standard drinks. This is approximately equivalent to a ‘stubby’ or ‘handle’ of full-strength beer. RTDs of larger volume or higher alcohol content would be banned products, the sale of which would be an offence under **clause 221**.

Closure of premises

47. We are encouraged that police are being given greater powers to take immediate action against a licensed premises where the overall situation is a threat to public safety, out of control or seriously threatening to erupt, or

serious crime is being committed (**clause 249**). This has been a weak point of the existing law, where the threshold for taking action is essentially limited to fighting or rioting which could not be dealt with simply by removing a few individuals.

'3 strikes'

48. The Association supports the '3 strikes' approach to banning for five years irresponsible licensees/managers, as proposed by **clauses 274 and 275**. Individuals who show themselves unwilling to comply with the requirements of responsible commercial supply of alcohol ought to have their right to engage in the activity as a business withdrawn. Because the behaviour is (generally) rational and profit driven, the threat of a ban after '3 strikes' could be expected to form part of a rational decision as to whether to flout licence conditions.

Evidence of age documents

49. The Association is pleased to see a tightening of the available defences in relation to offences of supplying liquor to a minor from a licensed premises, and permitting a minor to be in a restricted/supervised area (**clauses 222 and 228** respectively). The provisions now require the defendant to prove they sighted an evidence of age document, and also that they had a reasonable belief the person was not a minor. At present the requirement is simply for a belief on reasonable grounds. We believe this change will encourage licensees/managers to take their responsibilities to check ID more seriously, as well as rejecting obviously fake/borrowed ID.
50. We also support the new offences relating to evidence of age documents (**clause 240**). Existing offences such as those under the Crimes Act 1961 and Passports Act 1992 are not particularly suitable to the nature and context of the offending perpetrated by minors who attempt to pass off false, altered or borrowed evidence of age documents as genuine for the purposes of being served alcohol. The new offence clause spells out the prohibited behaviour in a clear fashion and the maximum fine specified is in line with the gravity of the majority of the offending. The new offence will not preclude offenders being charged with the more serious offences such as using a document in circumstances where that is warranted.

Infringement offences

51. We support the creation of an infringement offence regime by **clauses 243-247**, as this should allow for action to be taken against breaches in a more immediate, timely and efficient way. However it is important police retain the ability to proceed through court action by laying an information under the Summary Proceedings Act 1957, and we are pleased to see this option is retained by **clause 244**.
52. We are aware that the proposed creation of an infringement regime for breach of liquor ban offences (**Parts 9 and 10**) has attracted some controversy. It has been argued the proposed retention of the power to arrest for this offence (**clause 403**) is incompatible with an infringement regime, and would mean

any arrest made may amount to “arbitrary arrest or detention” in terms of section 22 of the New Zealand Bill of Rights Act 1990. The Association is not persuaded by this argument. In every case where a constable makes a decision either to issue an infringement notice on the spot; or arrest and then issue an infringement notice; or arrest and then proceed by laying an information; then each individual decision is an exercise of constabulary discretion. Constabulary discretion is an inherent and important principle of policing; however it is not exercised in an “arbitrary” manner because the exercise of that discretion is guided by appropriate policies and training to ensure a consistency of approach.

53. Police’s approach to liquor ban enforcement is already guided by guidelines. Those reinforce that the first option is to issue a warning. In many cases that is all that is required. So, the approach at the ‘front end’ will not change. However, where further action is required, the vast majority of such cases are likely to be able to be dealt with adequately by infringement notice. There are therefore potentially considerable benefits in saving police processing time (thus allowing officers to spend more time on the streets policing the ‘hotspots’) and in court time downstream. Issuing an infringement notice is also likely to be a response more commensurate with the gravity of the offence in most cases and will avoid criminalising the offenders.
54. However, it is critical that Police also retain the power to arrest for breach of liquor ban offences. Liquor bans were introduced because communities were suffering a serious negative impact from uncontrolled drinking in public places exploding into serious disorder and mayhem. Police response after such disorder begins is resource intensive, hugely disruptive to affected communities, is often unable to prevent property damage, and exposes officers to violence. Imposition of liquor bans, backed by the power of arrest, has been critical to early intervention to keep control of likely flash-point situations before they boil over. Alternative provisions giving power to arrest, such as for disorderly behaviour and disorderly assembly, are less suitable because they require behaviour to have already escalated to the point of serious disorder. In the case of disorderly assembly, this also implies that a constable is already facing a disorderly group, with the greatly increased risks and difficulties that situation entails. The dynamic of drunk crowds means taking action once such a situation of disorder has already arisen risks actually sparking off wider disorder.
55. Notwithstanding the controversy, the Association is strongly of the view that the Bill’s proposed regime appropriately balances the community interests of maintaining order and intervening to prevent serious disorder in high-risk areas, while also providing benefits through a more ‘user-friendly’ process both for the authorities, and also for the vast majority of offenders. It is in our opinion a pragmatic solution which offers the best of both worlds. As a safeguard, the Bill allows that just as Police will retain the ability to proceed under the Summary Proceedings Act 1957 by laying an information, an alleged offender will retain the right to challenge an infringement offence in court.

56. The Association also supports the broadened meaning of ‘public place’ in **clause 402** which extends liquor ban areas to areas such as school grounds and car parks which are actually private property, even though the public may have unrestricted access to them. This change is in keeping with the objectives of the liquor ban regime and will help ensure the intent is not frustrated by the technicalities.

Drink-driving limits

57. We recognise that the issue of adult drink-driving limits (i.e. permissible blood alcohol concentration levels to legally be in control of a vehicle) is not within the scope of this Bill. However, the issue is highly relevant to the Bill’s objectives of reducing alcohol-related harm.

58. Alcohol-related crashes are unfortunately incidents with which many Association members have direct experience as emergency responders. The members’ survey referred to earlier in this submission asked members about their attitudes towards lowering the permissible (adult) blood alcohol level for driving, from the current 80 mg per 100 ml of blood, to 50 mg per 100 ml (or its breath alcohol equivalent, which would see a reduction from the current 400 mcg per litre of breath to 250 mcg per litre of breath). Members were overwhelmingly in favour of the proposed lower acceptable limits:

Table 2

<i>Do you support or oppose lowering the maximum permissible blood alcohol level to drive a motor vehicle from the current 80 mg per 100 ml of blood, to 50 mg per 100ml (or its breath-alcohol equivalent)?</i>	
Support	80%
Oppose	14%
Not sure	6%

59. Those members who we would expect to deal most directly and often with the consequences of alcohol impaired driving were even more strongly in favour of the proposal: 82% of all constabulary (sworn) staff were in favour. Particularly strong support came from road policing staff (91%) and General Duties Branch frontline staff (84%).

Conclusion

60. Currently alcohol related disorder and offending is a significant drain on Police resources. The Association is encouraged to see some action being taken to address alcohol regulation in a way which should better enable police to take timely and effective action in response to the consequences of excessive alcohol consumption. In some respects, such as the purchase age, hours of trade, and drink-drive limits, we believe the Bill could go further. In future years this may be seen as something of a missed opportunity to tackle the ‘big issues’. Nevertheless, important provisions such as the creation of an infringement regime for breach of liquor ban, backed by a power of arrest, should assist in reducing the alcohol-related imposition on Police resources in those contexts.

61. However, we cannot expect this or any Bill to be a panacea for society's alcohol-related ills. Until community attitudes to excessive alcohol consumption change, no amount of regulation is likely to significantly alter the fact that Police and other emergency services, and social services more generally, will continue to be required to spend a considerable amount of time and resource picking up the pieces.
62. The Association would welcome the opportunity to appear before the Committee in support of this submission.

Greg O'Connor
PRESIDENT