Chapter 11: Liquor regulation: beyond the night-time economy

Michael Livingston

Introduction

The role of liquor licensing in reducing or facilitating alcohol-related harm is increasingly the focus of public and policy attention. In particular, media and governments have focused heavily on late-night entertainment precincts and alcohol-related violence. In this chapter, I will summarise the local and international research evidence highlighting the broader range of health and social problems that alcohol contributes to and the potential role of the packaged liquor market in driving these harms. The key argument of this chapter will be that public health researchers, governments and regulators should pay more attention to the effective regulation of the packaged liquor industry in order to reduce the broader range of alcohol-related harms in Australia.

Recent liquor licensing policies in Australia

In recent years, the potential for liquor licensing policy to reduce alcohol-related harm has been increasingly recognised around Australia. This has been driven, at least in part, by extensive media coverage of alcohol-related violence in and around late-night entertainment precincts, which has led to an ongoing policy focus on nightclubs, pubs and bars (1-4).

In Victoria, for example, both Labor and Coalition governments have expended much policy energy on reducing late night violence. This has included a controversial and unsuccessful trial of late-night lockout conditions for licensed premises, an ongoing cap on the number of late-trading licences in the four major entertainment precincts in Melbourne and the implementation of a risk-based licensing scheme that emphasises the risks associated with large, late-trading venues (5, 6). In New South Wales, legal conditions on ‘risky’ venues have been enacted, with restrictions on the kinds of beverages that can be served, the availability of glass and requirements for responsible service of alcohol marshals among others. Similar restrictions were rolled out in Kings Cross following the assault-related death of Thomas Kelly (7), followed by more restrictive measures in early 2014 including a 1:30am lock-out and cessation of alcohol sales at 3am (REF). In Newcastle, the Liquor Administration Board implemented mandatory closing hours for late-trading pubs, alongside a lock-out and a suite of other measures (e.g. restrictions on the sale of shots). The previous Queensland
government ran an inquiry into alcohol-related violence, with recommendations and policy outcomes largely aimed at regulating entertainment precincts and banning problematic drinkers from venues (8).

Many of these measures are valuable and important policy steps – indeed, the Newcastle restrictions have resulted in sharp reductions in alcohol-related violence (9) – but the overarching policy focus on late-night on-premise drinking highlights a narrow view of alcohol-related harms.

Alcohol-related violence represents a small component of the total health and social harm related to alcohol in Australia. Indeed, in a comprehensive analysis of alcohol’s contribution to the burden of disease and injury in Australia, violence did not figure in the five major outcomes attributable to alcohol (10). Even focussing specifically on violence, the kind of assaults that have been the focus of most recent policy changes (assaults in public places, usually involving strangers) make up less than half of all alcohol-related violence, with domestic violence at least as prevalent as public violence (11). Furthermore, much of the violence in entertainment precincts can be linked to the consumption of packaged liquor. Recent studies highlight the prevalence of pre-drinking among attendees at late night drinking venues, with around two-thirds of young people reporting pre-drinking an average of five standard drinks before going out (12). There is thus clear evidence that alcohol policies that aim to reduce alcohol-related harm in society need to encompass more than interventions in late-night entertainment precincts. Broad population-based policies such as alcohol taxation and restrictions on alcohol promotion are key approaches here (13), but liquor licensing policy also has a role to play.

In spite of this, there have been few liquor licensing policy interventions aimed at the broader range of alcohol outlets in Australia. The 1990s and early 2000s saw a gradual relaxation of alcohol regulation in Australia, with the National Competition Council (NCC) particularly influential (see also Chapter 3). Under NCC pressure, caps on ownership were lifted where they existed, providing a means for the major supermarket chains to expand their packaged liquor holdings (14). More recently, a number of jurisdictions have implemented risk-based fees, which require higher fees for late trading but generally treat packaged liquor outlets as relatively low risk (15, 16). The most concrete attention to packaged liquor has been in Victoria, where planning regulations have been explicitly modified to ensure consistency between packaged liquor outlets and other outlet types (5). However, these changes have proved difficult to utilise and have thus far had little impact on the ability of local governments to influence licensing outcomes at the local level (17). The recent developments in New South Wales (REF) where packaged liquor outlets have been restricted from trading after 10pm state-wide, suggest some shift in focus towards regulation packaged liquor, but this is a rare example of concrete policy in this space.

This lack of policy attention paid to packaged liquor outlets is concerning given their increasing dominance of the alcohol market in Australia. Industry reports estimate that around 80 per cent of all alcohol sold in Australia is sold by packaged liquor outlets (18), a proportion that is steadily increasing (19). This has been driven in part by the increased involvement of the major supermarket chains in the packaged liquor market and the related expansion of the number and type of retail outlets (20). This expansion has been resisted by local communities in most Australian states, with limited success. In Victoria, packaged liquor outlets have been a battleground for planning and liquor licensing decisions, with a series of new outlets unsuccessfully objected to by local governments (e.g.
17, 21, 22). Similarly, communities have mounted (largely unsuccessful) objections in New South Wales to the opening of new Dan Murphy’s stores (23) or the licensing of existing Aldi supermarkets (24).

**The research evidence**

There is a growing body of research evidence suggesting that effective liquor licensing policies targeting packaged liquor outlets can contribute to reductions in a broad range of alcohol-related harm. Historically, studies of large changes to the packaged liquor environment have consistently found substantial impacts on alcohol consumption and related harm. For example, the introduction of beer to grocery stores in Finland increased the number of places alcohol could be bought twenty-fold. This policy change resulted in sharp increases in consumption levels and alcohol-related harm in Finland, particularly affecting heavier drinkers (25). Similarly, the introduction of medium-strength beer to Swedish grocery stores in 1965 produced substantial increases in total alcohol consumption and alcohol-related harm, which were reversed when this policy change was overturned in 1977 (26). In New Zealand, the introduction of wine into supermarkets greatly increased the number of places it was sold, increasing sales by around 17 per cent, with no corresponding decline in other beverage sales (27).

At the local level, there is increasing cross-sectional evidence that heavy drinking by young people is higher in neighbourhoods with higher densities of packaged liquor outlets (28-32). More compellingly, there is growing longitudinal evidence linking packaged liquor outlet density and alcohol problems. This provides a more robust assessment of the potential relationship between alcohol outlet densities and problems and provides more reliable estimates of the potential change in harm rates given a change in outlet density.

Studies in this tradition have reinforced the likely causal relationship between the density of packaged liquor outlets and rates of harm from alcohol. For example, Gruenewald et al. (33) used data from 581 Californian zip codes across six years, finding that both off-premise outlet and bar densities were associated with assault rates over time. Also in California, similar approaches have found longitudinal relationships between alcohol outlet density and child maltreatment (34), intimate partner violence (35) and traffic accidents (36) using small area data. A study using a broader geographical basis and larger spatial units found significant correlations over time between outlet densities and youth homicide rates in the 91 largest U.S. cities (37).

There is similar evidence from Australia. In particular, a series of longitudinal studies using postcode-level data in Melbourne have highlighted the positive relationships between changes in the density of packaged liquor outlets and changes in rates of assault, domestic violence and chronic alcohol-related disease (38-40). The results of these studies suggest that, in an average postcode, a 10 per cent increase in the density of packaged liquor outlets would lead to approximately:

- A 1 per cent increase in assaults recorded by police and a 0.5 per cent increase in hospitalisations due to assault;
- A 3.3 per cent increase in family violence incidents recorded by the police;
- A 1.9 per cent increase in hospitalisations due to alcohol-specific chronic disease.
These longitudinal studies have been supplemented by two cross-sectional studies examining the link between packaged liquor outlet densities and drinking behaviour. The first, a study of young adult drinkers (aged 16-24) in Victoria (32), examined factors that predicted very high-risk drinking patterns (20+ drinks in a session, monthly or more often for males and 11+ drinks in a session, monthly or more often for females), finding that packaged liquor outlet density was significantly related to this type of drinking. While the effect size appears modest, in a hypothetical suburb with 1000 16-24 year olds, a single additional outlet would, on average, increase the number of young people drinking in this extremely dangerous way by 6.

More recently, a study of adult drinking found that the density of packaged liquor outlets at the local level was positively associated with rates of episodic risky drinking. Respondents living in areas with eight or more outlets within a 1km road distance were more than twice as likely to report regular risky drinking, even with a range of socio-demographic factors controlled (41).

A further study from Western Australia made use of the detailed sales data collected in that state to examine the relative impact of density of packaged outlets and volume of alcohol sold on local rates of assault (42). Their findings, that for packaged liquor outlets sales matter more than density, suggest that the size of the packaged outlet may be important, with outlets that sell a greater volume of alcohol contributing more to local level problems than those that sell less.

There is thus strong and consistent evidence that the number, distribution and type of packaged liquor outlets at the local level – key concerns for planning and liquor licensing regimes – are important drivers of alcohol-related harm. There have been few studies of other potential policy interventions aimed at packaged liquor outlets, but there is some suggestive evidence that trading hours (43) and the regulation of minimum prices (44) may be effective approaches.

The regulation of packaged liquor outlets may also provide a means for government to reduce socio-economic disparities in health outcomes in Australia. There is increasing evidence internationally that packaged liquor outlets tend to cluster in disadvantaged neighbourhoods (45, 46). Similar data are not available at the national level in Australia, but a Victorian study identified substantially higher densities of packaged liquor outlets in the most disadvantaged neighbourhoods. In urban areas, the most disadvantaged neighbourhoods had around twice as many packaged liquor outlets per capita (and around 4.5 times as many per square kilometre) than the most advantaged neighbourhoods, with even starker differences in regional and rural areas (47).

**Potential regulatory approaches**

This substantial evidence base suggests that liquor licensing policies in Australia should be concerned with the regulation of the packaged liquor market. However, this is a complex regulatory area, involving powerful stakeholders, an ambivalent public and the very real potential of unintended consequences. The current legislative and regulatory environments vary substantially across Australian jurisdictions, and further comparative research is necessary to identify the best approaches currently being implemented. In New South Wales, for example, detailed community impact assessments are required for new packaged liquor outlets (48). These assessments have been used by local governments to consider the potential negative effects of new outlets and, in some
cases, to reject them. However, in most cases these rejections have been successfully appealed by the applicant, thus rendering the entire process largely symbolic (23). A similar series of unsuccessful objections by local governments in Victoria (e.g. 21-22) suggests that the current balance between local input and overarching systems may be wrong (although see Chapter 5 for promising recent developments). This has been noted by the National Local Government Drug and Alcohol Advisory Committee, which has called for licensing and planning legislation to provide greater influence to local policy makers (49).

The Western Australian (WA) example (discussed elsewhere in this volume) provides another example of a potential approach to regulating the packaged liquor market. A key consideration in licensing decisions in WA is the potential community impact of the new licence, with the applicant having to demonstrate that the new outlet would be in the public interest. This reverses the burden of proof as it is generally implemented in other jurisdictions, with local governments or health agencies required to conclusively prove why a proposed liquor outlet is *not* in the public interest. Recent successful objections to big box liquor stores in WA (50) suggest that this approach may provide some of the balance currently missing in other states.

A more straightforward approach that would build on existing policy agendas in a number of states would be to develop a more sophisticated form of risk-based licensing. This would need to incorporate a broader conception of risk than that currently considered (e.g. risk of violence on the premises) and build in the risk of harm as it is distributed more broadly across the community. This might mean that packaged outlets in areas with high rates of alcohol-related harm are charged higher licensing fees, or that fees increase as the density of outlets increases to discourage high density alcohol retail environments. Further, based on the findings of Liang and Chikritzhs recent study (42), differential fees could be charged based on turnover or sales such that the outlets selling the most alcohol paid the highest licensing fees (although this approach may have some legal impediments, (51)). The setting of differential rates for alcohol outlets would combine a fee-based deterrent and local influence over the alcohol environment, although recent moves in Victoria suggest that this kind of approach will be resisted by state governments (52).

**Conclusions**

This chapter has presented the growing evidence that the packaged liquor market in Australia is contributing substantially to alcohol-related harm and that there is a key role for liquor licensing regulation in limiting these harms. Much of the policy agenda is currently driven by highly visible problems such as night-time violence and heavy drinking by young people in public spaces, while the harms linked to packaged liquor are broader and more private (e.g. chronic disease, domestic violence). Policy-makers, researchers and the media need to broaden the scope of the policy debate to incorporate these harms and to develop more robust liquor licensing controls for packaged liquor outlets in Australia.

There is currently a paucity of data available at the local level on the sale of alcohol in Australia. These data would provide critical resources for local governments and researchers when assessing the relative contributions of different types of liquor outlets to harm in the community. Recent work in Western Australia has demonstrated the usefulness of these data, highlighting the importance of
understanding not just how many outlets exist in local areas, but how much alcohol they sell (42). Further, standardised reporting of local level rates of a broad range of alcohol-related harms would provide local governments and licensing agencies with critical resources in determining the appropriateness of approving new alcohol outlets in particular areas. Within local governments, greater collaboration between health, social and statutory planners would ensure that key issues relating to packaged liquor were considered across the planning and licensing processes and would enable consistent approaches by local governments with higher likelihoods of success.

The impact of the expanding packaged liquor market is implicitly recognised in the ongoing debates about minimum-pricing and alcohol taxation, as policy changes in these areas will impact primarily on the packaged liquor market. While pricing policies represent a centralised approach to limiting the impact of packaged liquor in the community, the evidence presented here suggests that licensing policies can also play an important role. The specific factors considered in making liquor licensing and planning decisions need to extend beyond a narrow approach, focusing on acute harms that occur in and around specific outlets to a broader understanding of the impact of liquor outlets at the local level. Thus, for example, existing data on community level rates of domestic violence or chronic disease should be provided as key components of any social impact assessment and the considerations of the ‘cumulative impact’ of alcohol outlets should incorporate these kinds of outcomes.

References