

2014/03: King hit laws: are the new laws and regulations proposed for New South Wales appropriate?

What they said...

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New South Wales premier, Barry O'Farrell

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Sydney criminal solicitor, Olivia Harris

The issue at a glance

On January 21, 2014, New South Wales premier, Barry O'Farrell, announced an extensive reform package following the death of alleged one-punch victim, Daniel Christie, after a night out in Kings Cross and the brutal assault of Michael McEwen in Bondi.

The reform package is a suite of laws and regulations, the key elements of which are extended sentences for alcohol-related assaults together with mandatory minimum terms, and lockout restrictions and limitations on when alcohol can be sold in parts of the Sydney CBD.

The new laws and regulations have met with a mixed response. Though there has been substantial public, police and medical pressure for additional measures to curb alcohol-related crimes, the precise measures to be implemented have met with opposition from numerous quarters.

Background

New alcohol- and drug-related laws and regulations for New South Wales

1. One-punch law

A new offence for 'one punch' assaults, with a 20-year maximum sentence for causing death. Where the offender was intoxicated by alcohol or drugs, a minimum mandatory sentence of eight years and a maximum sentence of 25 years applies.

2. Mandatory minimum sentences

Mandatory minimums introduced for serious assaults where drugs and alcohol are involved; existing maximum sentences increased by two years. There will be eight year mandatory minimum sentences for those convicted under new one punch laws where the offender is intoxicated by drugs and/or alcohol, plus new mandatory minimum sentences for violent assaults where intoxicated by drugs and/or alcohol.

3. Sentencing

Voluntary intoxication removed as a mitigating factor in sentencing.

4. Drug and alcohol testing

Police empowered to test assault suspects for drugs and alcohol.

5. New Sydney precinct

A new Sydney CBD precinct declared with special licence conditions imposed on venues by regulation.

6. Lockouts and last drinks

Venues within the precinct will not be allowed to admit patrons after 1.30am, or to serve drinks after 3am (excluding small bars with fewer than 60 patrons, restaurants and tourist accommodation).

7. Public transport

Free buses every 10 minutes from Kings Cross to the CBD on Friday and Saturday nights.

8. Licensing freeze

No new liquor licences to be issued for venues within the precinct (excluding small bars, restaurants and tourist accommodation).

9. Precinct bans

Police given power to ban people from the precinct or part of it.

10. Licensing fees

New licensing scheme with higher fees for venues deemed 'higher risk'.

11. Earlier closing times for bottle shops

Bottle shops and liquor stores across the state will be required to close no later than 10pm.

12. Increased fines

On-the-spot fines issued by Police for anti-social behaviour will be increased.

13. Steroid penalties

Maximum sentence for the illegal supply and possession of steroids increased from two years to 25 years.

14. Responsible Service of Alcohol

Online RSA courses suspended pending changes.

15. Minors

Police will be allowed to mount covert controlled operations to enforce laws on sale of alcohol to minors'

16. Advertising

A 'road safety style' social media and advertising campaign will be launched.

Alcohol laws in Australia

The retail sale of alcohol in Australia requires that a license be obtained from the liquor licensing authority of the State or Territory in which the sale takes place. It also regulates the location of outlets through planning laws, and other restrictions. Local government may have an input into these outcomes.

The Federal government controls the importation of alcohol beverages into Australia, and has a strong impact on the market for liquor through the imposition of excise taxes on the manufacture of liquor within Australia and importation into Australia. It also controls advertising of alcoholic beverages on television.

It is illegal for a person under 18 years to buy, drink or possess alcohol on licensed premises except in the company of their guardian (or spouse) when ordering a meal, but some states, such as Victoria and Western Australia, allow drinking or possessing alcohol on private premises for people under 18 years (under the supervision of at least one adult). By 1974, all Australian states and territories had a drinking age of 18 instead of 21.

Some states, such as Victoria, permit drinking in vehicles once a full license is obtained. Drivers cannot drive a motor vehicle when they have a blood-alcohol concentration (BAC) level higher than 0.05 when they hold a full driver license. Provisional and learner drivers must not drive with any detectable blood-alcohol present. (see Driver's licence in Australia) Commercial drivers have a limit of 0.02 whilst working.

In May 2008, three submissions to the Senate Community Affairs Committee Inquiry into Ready-to-drink alcohol beverages recommended that the drinking age be raised to 21, with Drug Awareness suggesting that after 21 "the brain is better protected from this toxin".

Many towns and communities ban outdoor consumption of alcohol. Dry zones are often established by local councils after certain areas, such as local city parks, become favourite locations for problem drinking, violence, and anti-social behaviour. Some local councils further restrict consuming alcohol in outdoor public areas, such as local streets, footpaths, and hiking trails. Dry zones in South Australia are found at Glenelg, Adelaide city centre, and Port Augusta.

Internet information

On February 5, 2014, The New Daily ran an opinion piece titled 'Why 'one-punch' laws are woefully misguided'. The piece argues both that the new laws are unnecessary and likely to be ineffective.

The full text of this opinion piece can be found at <http://thenewdaily.com.au/news/2014/02/05/getting-real-coward-punch-laws/>

On January 23, 2014, ABC News ran a report titled 'One-punch laws: mandatory sentences for drunken violence "a recipe for injustice", say NSW legal experts'. The report details the views of a number of legal experts opposed to the mandatory minimum sentences imposed under the new New South Wales legislation.

The full text of the report can be accessed at <http://www.abc.net.au/news/2014-01-22/one-punch-mandatory-sentences-27a-recipe-for-injustice27/5212462>

On January 22, 2014, The Telegraph ran an article titled 'NSW Premier Barry O'Farrell shrugs off John Ibrahim's complaints after pledging to fill jails with tough new alcohol laws'. In this report the premier is quoted arguing against some of the criticism raised against his government's new laws.

The full text of this article can be found at <http://www.dailytelegraph.com.au/news/nsw-premier-barry-ofarrell-shrugs-off-john-ibrahims-complaints-after-pledging-to-fill-jails-with-tough-new-alcohol-laws/story-fni0cx4q-1226807166319>

On January 21, 2014, ABC News ran a report detailing the new laws and regulations the New South Wales government is to introduce to curb alcohol-related violence.

The full text of this report can be found at <http://www.abc.net.au/news/2014-01-21/one-punch-laws-to-tackle-sydney-alcohol-fuelled-violence/5210740>

On January 21, 2014, the ABC opinion site, The Drum, published an opinion piece by Chris Berg titled 'Neo-prohibition isn't the answer to violent crime'. The piece is an argument against the restrictive provisions of the new O'Farrell government laws and regulations.

The full text of this argument can be accessed at <http://www.abc.net.au/news/2014-01-21/berg-neo-prohibition/5210782>

On January 21, 2014, The Conversation ran an opinion piece by Reawyn Connell, professor in Social Science at the University of Sydney. The article concerns the physiological and psychological components of male aggression.

The full text of this article can be found at <http://theconversation.com/king-hits-young-men-masculinity-and-violence-22247>

On January 15, 2014, ABC News ran a report titled 'NSW crime statistics show efforts to curb crime in Kings Cross "are not working"' The report draws on the data treated in The Guardian report and uses it to argue that no further

measures are needed to reduce alcohol-related violence.

The full text of this article can be accessed at <http://www.abc.net.au/news/2014-01-15/confusion-over-kings-cross-assault-drop-claim/5201260>

On January 11, 2014, The Sydney Morning Herald ran a report on the death of a Sydney teenager, Daniel Christie, who died after apparently being king-hit at Kings Cross.

The full text of this report can be accessed at <http://www.smh.com.au/nsw/daniel-christie-dies-following-kinghit-punch-20140111-30ndv.html>

On January 9, 2014, The Guardian published an article titled 'Alcohol-related violence: numbers don't always tally with media attention' which argues that recent statistics on alcohol-related crime in New South Wales indicate that levels of these crime are actually declining.

The full text of this article can be accessed at <http://www.theguardian.com/news/datablog/2014/jan/09/alcohol-related-violence-numbers-dont-always-tally-with-media-attention>

On November 11, 2013, ABC News ran a report titled 'Thomas Kelly's parents petition for tougher king-hit laws after Kieran Loveridge manslaughter sentence'. The report details the disappointment of Thomas Kelly's parents after the sentence imposed upon the man found guilty of king-hitting and killing their son.

The full text of this article can be found at <http://www.abc.net.au/news/2013-11-11/thomas-kelly27s-parents-petition-for-tougher-27king-hit27-la/5082280>

On November 8, 2013, The Telegraph published an article titled "'Horrorified" mother of victim calls for tougher stance on king-hit killer' in which the mother of a teenager who died after being king-hit calls for stricter measures to reduce alcohol-related violence.

The full text of this article can be found at <http://www.dailytelegraph.com.au/news/nsw/horrified-mother-of-victim-calls-for-tougher-stance-on-kinghit-killer/story-fni0cx12-1226755619742>

On June 10, 2013, The Telegraph ran a report titled 'Newcastle's licensed premises lock-out trial an example of how to have safer streets' which refers to research demonstrating the effectiveness of the city's lockout laws.

The full text of this report can be accessed at <http://www.dailytelegraph.com.au/news/nsw/lockouts-a-lesson-in-safer-streets/story-fni0cx12-1226660954416>

In 2013 The Police Association of New South Wales made a submission to the Review of the Liquor Act 2007 and the Gaming and Liquor Administration Act 2007. The submission details the extent of alcohol-related violence in New South Wales, including attacks on policy, and calls for tougher legal and administrative action to reduce this violence.

The full text of the submission can be accessed at <http://lastdrinks.org.au/wp-content/uploads/2013/08/PANSW-submission.pdf>

Arguments against New South Wales laws designed to reduced alcohol-related violence

1. Alcohol-related violence is declining

It has been claimed that the rate of alcohol-related violence is declining in New South Wales and does not warrant the introduction of new harsher penalties.

According to the New South Wales Bureau of Crime Statistics and Research, over the past five years assaults on licensed premises across the state have fallen by 7.2 per cent and off-premises the incidence has dropped 3.9 per cent.

In the Kings Cross area, over the same period, assaults in licensed premises have fallen while off-premises they have remained stable.

This point was made in an article published in The Guardian on January 9, 2014. The article noted, 'Bureau of Crime Statistics and Research statistics show the rate of alcohol-related assaults in New South Wales has been declining since 2008 and is the lowest since 2002, with 184.8 assaults per 100,000 people per year.'

Statistics for the number of hospitalisation in New South Wales, for males aged between 15 and 44, which have occurred as a result of assault, tell a similar story. When hospitalisations due to injury are ranked by number of incidents, interpersonal assault is eighth. Both falls and motor vehicle accidents result in more than twice the number of hospitalisations.

2. The proposed laws would reduce judicial discretion

Concern has been expressed that imposing maximum minimum sentences for alcohol-related violent crimes reduces the discretion of a judge to impose what he or she believes is an appropriate penalty in a particular case.

Judicial discretion is intended to allow judges to draw on their expertise and experience and their appreciation of the circumstances of a particular offender to ensure that the sentence imposed is both just and most likely to ensure the rehabilitation of the convicted person.

Mandatory minimum sentences have been condemned as crude, irresponsive measures which do not achieve the best

overall outcomes.

In an address to the New South Wales Law Society, Chief Justice Bathurst stated, 'Ultimately, the question must be whether, regardless of the circumstances in which an offence was committed and regardless of the circumstances of the offender, a particular mandatory minimum sentence will always be justified.' The Chief Justices intended the implicit answer to this question to be 'no'.

The president of the New South Wales Bar Association, Phillip Boulter, has also stated, 'Mandatory sentencing is a "one size fits all" form of justice, which fails to take into account the individual circumstances of each case.'

Phillip Bolton has further argued, "Mandatory sentencing laws do not deter criminal activity. They remove discretion from judges. They result in penalties that are often disproportionately harsh.'

Sydney criminal solicitor, Olivia Harris, has similarly stated, 'One of the most important aspects of the judicial system is judges have discretion to consider all the circumstances when making decisions.

Mandatory sentencing only fetters judges' capacity to take everything into account and I would have thought most people would agree all of the circumstances about offenders and victims should be taken into account.'

3. The proposed laws would discriminate against indigenous Australians

It has been predicted that one aspect of the mandatory minimum sentences proposed for alcohol-related violent crimes would be a dramatic increase in the number of Aboriginal men being incarcerated in regional prisons.

Brad Orrington and Mark Coult, in an analysis published in The Australian on January 28, 2014, noted, 'Every year more than 3000 Aboriginal men, most affected by alcohol at the time of their offence, are found guilty of assault in NSW courts. But only 740 receive jail sentences while the rest are given bonds, fines or other non-custodial penalties.'

The imposition of non-custodial penalties upon Aboriginal offenders is a recognition of the disproportionate number of Aboriginal men who have historically been incarcerated in Australia and of the extremely damaging effect that such incarceration has often had on these men. The number of deaths, including suicides, suffered by these men has become a cause for national concern.

The 1987 Royal Commission into Aboriginal Deaths in Custody made numerous recommendations aimed at reversing this trend. Despite this, a major recent review of deaths in custody conducted by the Australian Institute of Criminology has found a substantial increase in the number of Aboriginal people dying in custody over the past five years.

The study found the overall rate of deaths in state and territory prisons has remained relatively steady over the past 20 years. But there has been a spike in the number Indigenous deaths in custody, in line with an almost doubling of the number of Aboriginal Australians being locked up.

Concern has been expressed that the changes to maximum minimum sentences to be made in New South Wales will exacerbate this recent pattern of increase.

John McKenzie, the chief legal officer of the New South Wales Aboriginal Legal Aid Service, has noted that Aboriginal people were already over-represented in New South Wales jails, accounting for 2 per cent of the state's population but 23 per cent of all prison inmates in the state.

Mr McKenzie has stated, 'My biggest concern about Mr O'Farrell's measures is at the lower end of the scale of assaults, if they are cases involving alcohol, that attract mandatory minimum sentences and extended maximums.

The impact on the Aboriginal community would be vast - we are talking hundreds or even 1000 to 2000 additional people convicted of assaults getting locked up for two years.'

4. The proposed laws discriminate against law-abiding drinkers and business owners

It has been claimed that the proposed lock-out provisions from nightclubs would unfairly restrict the behaviour of the majority of drinkers, who are law-abiding.

Incoming Australian Human Rights Commissioner, Tim Wilson, has stated, 'Stopping street violence is not achieved through arbitrary restrictions on the individual liberty of law-abiding citizens in the hope that it may reduce criminal behaviour amongst a small number of individuals.'

Mr Wilson has further claimed, 'A lockout limits the rights of law-abiding patrons to exercise their right to self-determination by engaging in legal behaviour. Lockouts also arbitrarily punish licensed premises.'

Mr Wilson went on to explain that a majority of citizens were in fact adhering to the law and that this trend was increasing. Under such circumstances, limiting their recreational freedoms seems inappropriate. Mr Wilson stated, 'Introducing a lockout also misdiagnoses the problem. Apart from a small group who have increased their consumption of alcohol, the ABS reports that the average rate of consumption of alcohol is actually in long-term decline.'

It has also been noted that the new lock-out proposals will damage the business of nightclubs owners and the owners of other entertainment venues.

A spokesperson for the Australian Hotels Association has stated, 'The lockouts and closures in the Sydney CBD will also have an undeniable impact on the night-time economy - penalising businesses that are well run and have had nothing to do with the recent violence.'

Musician Emoh Instead has stated, 'The seven years I've been involved in the music industry I have never been more impressed by crowds, events, culture, music and the general attitude currently present in the Australian club scene.

I am so sad today seeing the new lockout legislation brought on Sydney venues. It is a quick fix to please people consumed by media hype, completely removed and lacking understanding of the true circumstances.

The worst part, this does not even solve the real issue and will ruin our thriving music culture. I am scared of what will happen at 3am every weekend at taxi change over time, with 10,000 disgruntled people on the streets at once trying to get home.'

5. The proposed laws are unlikely to reduce alcohol-related violence

It has been claimed that the new lock-out regulations are imposed at such a late hour that they would have no impact on the many offences committed earlier in the evening.

The new laws lock new customers out of city nightclubs from 1.30am and call last drinks at 3am, but the blows that caused the recent deaths of the two New South Wales teenagers were delivered around 9pm and 10pm respectively. The new laws would have offered these young men no protection as each had been fatally injured many hours before the fatal blows were struck.

Critics of the lock-out proposals argue that they become effective so late in the average nightclub patron's evening that they would offer little to no safeguard against violence, assault and possible death.

Chris Kenny, in an opinion piece published in *The Australian* on January 25, 2014, wrote, 'People, of course, are perfectly entitled to make the case for curtailing nightlife hours and sending revellers home earlier - it is just that it shouldn't be dressed up as an effective measure to prevent attacks that we know can happen long before midnight.'

It has further been noted that the harsher penalties to be imposed for alcohol-related assault are unlikely to reduce the incidence of such crimes. Alcohol-crimes, it is claimed, are not premeditated, and their perpetrators are unlikely to have considered the punishment that might later be meted out to them when they commit these crimes.

Sydney criminal solicitor, Olivia Harris, has stated, 'In my opinion people rarely think about the consequences of their actions when they're in the throes of crimes, specifically one-punch deaths that are usually caused by young men fuelled by alcohol.'

Ms Harris added, 'You couldn't expect those offenders, whose tempers end up killing people, to be thinking of mandatory sentences.'

The same point has been made by the President of the New South Wales Bar Association Phillip Bolton. Mr Bolton has claimed, 'There's no evidence at all that mandatory sentencing ever decreases the amount of crime that's committed and it has the ability to act unfairly on vulnerable and disadvantaged groups. It isn't effective, it's not a deterrent, it just leads to more people being locked up for no good purpose.'

Arguments in favour of New South Wales laws designed to reduced alcohol-related violence

1. Numerous lives have been lost and there have been many injuries due to alcohol-related violence

Alcohol-related violence is a prevalent feature of Australian nightlife.

King hit punches, inflicted by drunken assailants on unaware victims, have claimed 91 lives in Australia since 2000, according to the Monash University's forensic medicine department. A Monash University study found New South Wales had the highest toll - with 28 victims.

The most recent death, on January 11, of 18-year-old Daniel Christie, is the fifteenth fatality from a king-hit punch in Australia in the last six years.

A nation-wide study into king-hit deaths in Australia found alcohol was a major contributing factor to the violent fatalities.

Dr Jennifer Pilgrim, a Research Fellow at Monash University's Department of Forensic Medicine, has noted that alcohol intoxication also increased the risk of victimisation, not just aggressive offending.

Dr Pilgrim has claimed, 'Assaults are an ongoing problem in Australian society and king hits form a large part of these substance-related and often unprovoked attacks.'

Police Association conducted research in 2013 (funded by WorkCover NSW) into assaults against police over a 5 year period (2005-2010). The results of this research show a total of 16,423 assault officer incidents were recorded in New South Wales between 2005 and 2010, or an average of 2,737 assault officer incidents reported per year.

Across the state, on average one in every four operational police officers was assaulted each year. Alcohol related incidents represent 70% of all assaults on police and have a huge bearing on explaining assaults on police.

In 2011, there were a total of 27,404 alcohol-related assaults in New South Wales. Alcohol-related assaults in the summer months of 2011 in New South Wales accounted for 43 per cent of all summer assaults. The victims of these assaults are not only members of the general public.

Record numbers of police officers were also found to have been subjected to violent assault from intoxicated offenders, especially in the early hours of the morning. It has further been noted that an increasing number of other frontline emergency services workers have also been the victims of alcohol-fuelled assaults. These include ambulance officers, nurses and doctors who are attacked while attempting to give assistance and care to those who have been injured as a result of the effects of alcohol.

In 2005, the *Medical Journal of Australia* reported, 'Two Australian studies have found that over 60 percent of nurses had experienced violence in the workplace in the recent past...Up to 50 percent of episodes are associated with alcohol or drugs, and the timing of violence is almost certainly related to social patterns of use of such substances, with violence occurring more commonly during the evening shift and at weekends.'

2. The increased penalties will serve as a deterrent to alcohol-related violence

The New South Wales premier, Barry O'Farrell, has placed a strong emphasis on the deterrent effect he hopes will come from the new laws his government has introduced. He acknowledges that that they will initially result in a large increase in the state's prison population; however, he stresses that this is necessary to educate the drinking public that alcohol-related violence will not be tolerated.

Mr O'Farrell has stated, 'The new measures are tough and I make no apologies for that. What's been happening on

Sydney CBD streets and in other parts of the state demands strong action.'

Mr O'Farrell has further stated, 'By whatever it takes to get the message through to people across NSW that it is no longer acceptable to go out drink yourself stupid, take illicit substances, start fights, coward punch people or engage in other assaults thinking you'll get away with it.'

Mr O'Farrell concluded, 'The consequences couldn't be clearer for any thug heading out this weekend. If you are intoxicated with drugs or alcohol and fatally assault someone - you will now be captured by a new mandatory minimum sentence of eight years jail, with a maximum sentence of 25 years.'

The NSW Government has today sent the strongest possible message on behalf of the community - drug and alcohol - fuelled violence won't be tolerated anywhere in NSW.'

3. Lock-outs have been shown to reduce alcohol-related violence

The lock-out provisions now being imposed on clubs in Sydney have been operating in Newcastle since 2008. The success of these provisions there has led many to argue they are likely to be similarly successful when adopted on a larger scale.

The New South Wales Police Association, health professionals and the NSW/ACT Alcohol Policy Alliance have supported the use of 1am lock-outs, earlier closing times and ban on shots after 10pm that were imposed on 14 venues in Newcastle in 2008.

Hamilton, where late-night venues initially were not subject to the tight restrictions.

Newcastle had seven venues on the state's most violent list before the NSW Liquor Administration Board imposed the lock-out provisions. Within a year, assaults after dark had dropped by almost a third. By 2011 the city was recording 35 per cent fewer non-domestic night time assaults and street offences requiring police had fallen by half.

Deakin University Associate Professor, Peter Miller, who co-authored a study comparing the Newcastle measures with industry self-regulation in Geelong, has pointed to the greater effectiveness of the Newcastle measures.

Professor Miller has stated, 'The longer they're drinking, the more violent they get. It's a really simple equation. And I think it's incumbent on the government to act when the community's clearly unhappy with the levels of violence we're seeing.'

University of Newcastle Associate Professor Kypros Kypri and other researchers found that the Newcastle measures reduced assaults by up to 37 per cent compared with levels in nearby. Emergency department admissions were reduced by 26 per cent.

South Australia, which adopted less rigorous lockout provisions, has also reported success.

The state's Attorney General, John Rau, has noted that in the first month after the laws were introduced, there was a 25 per cent reduction in alcohol-related crime.

The South Australian measures include a lockout that stops people from entering venues after 3:00am, as well as a restriction on the sale of some drinks and a ban on glassware after 4:00am.

4. The community is concerned about alcohol-related violence

Recent detailed polling across a national sample of 800 people - conducted by a highly reputable research firm has discovered that alcohol-related violence is a measure of significant concern to the Australian populace.

The survey was conducted in November, 2013. It finds that 'tackling violence as a result of alcohol' is rated as 'very important' by 74 per cent of respondents and 'fairly important' by 21 per cent.

The total who see the issue as important, at 95 per cent, ranks marginally higher even than support for 'reducing the cost of living' at 93 per cent.

Across the nation, 80 per cent of the sample believes the problems of alcohol abuse and resultant poor health and violence are increasing (in New South Wales the figure is 84 per cent). The polling also ranked various alcohol-related issues and found street violence is the biggest concern, with 91 per cent worried about it.

Further restricting alcohol trading hours is popular, with 65 per cent in favour and only 29 per cent opposed. Higher fines and tougher sentences for violent offenders are also popular, along with increased policing of trouble spots.

Limiting the number of drinks per person in pubs and clubs has 66 per cent support and banning alcohol advertising gets a tick from 61 per cent.

There has also been vocal criticism of the penalties imposed upon several men who have recently been found guilty of killing another person in an unprovoked, alcohol-related assault. The mother of Thomas Kelly, whose son died in such circumstances, has decried the four year sentence given his killer. '[The sentence is] a joke, an absolute joke. And we're horrified.'

This was our son, a boy that was young, honest and starting his life and he's gone. The next person could be your son.' Such statements have helped to provoke a groundswell of popular demand for increased minimum penalties for such offences.

The New South Wales premier, Barry O'Farrell, has stated that mandatory minimum terms would not have been necessary if the judiciary had handed out the kind of penalties that the community expects.

Mr O'Farrell has claimed, 'Currently... manslaughter in this state is simply getting a penalty of about four years - that's clearly out of step with the community.'

5. The imposition of lockouts will not damage the Sydney economy

It has been claimed that much of the opposition to lockouts has come from the liquor industry and others who fear to lose financially if such restrictions are imposed.

Australian Salaried Medical Officers' Federation president, Dr Tony Sara, has stated, 'It might reduce profits a bit, but either they lose some money or we continue to have people hurt and maimed. I think the community comes before profits.'

However, it has been further claimed that the loss of revenue to hoteliers and the liquor industry generally will be relatively minor. For example, Woolworths is Australia's largest packaged liquor retailer. It has been estimated that imposing a ban on packaged alcohol sales after 10pm across New South Wales will see a profit reduction to Woolworths, in that retail area, of only 2%.

It has also been claimed that lockouts are likely to be of overall benefit to the night economy.

Findings released in 2014 of the impact of similar restrictions on hotels and nightclubs in Newcastle state there has been an increase in the total number of licensed premises in the Newcastle CBD and an increase in sustainable business diversity away from the late trading binge bars leading to an improved night economy. It has also been noted that the vast majority of 2008 Newcastle late trading venues have remained open.

There has also been an overall economic benefit to the Newcastle community as public health costs have been achieved more cheaply than through other possible alcohol consumption reduction measures. Significant reductions in public health, policing and related costs in Newcastle have been achieved at a lower cost than that associated with CCTV surveillance systems and other reactive measures in other cities that have not matched the outstanding successful harm prevention measures in Newcastle.

Further implications

The new suite of laws and regulations introduced by the New South Wales government to reduce alcohol-related violence represents a significant departure for the O'Farrell government which until recently had been reluctant to impose lockouts and fixed closing hours on nightclubs. It had also argued against increasing sale-of-alcohol licence fees for premises deemed a risk. Its new legislative response includes both these measures and many more. Two recent deaths resulting from king-hits appear to have acted as a catalyst for the O'Farrell government's wide-ranging response.

The response is able to be divided into two distinct parts. One is an attempt to regulate when alcohol is consumed in key areas of the Sydney CBD.

Restricting the sale of alcohol in licensed premises to 3.00am and refusing to allow patrons to enter premises after 1.30am is a response to research findings that alcohol-related violence increases as the night wears on. It is an attempt to prevent patrons ejected from one premises for intoxication moving on to another and to limit the opportunity for a patron to drink before leaving a licensed premises. It is also intended to reduce the number of drunken young men and women on the street as a night of drinking continues. The placing of a prohibition on the sale of packaged alcohol after 10pm is an attempt to prevent patrons becoming intoxicated before arriving at a licensed venue, a practice known as 'preloading'. The success of these measures can be gauged by their effectiveness in Newcastle since their imposition in 2008.

Criticisms that the placing of these restrictions at 1.30am and 3.00am would not have saved the lives of either of the young men recently king-hit in the Kings Cross district seem to miss the point. Yes, tragically, each of these deaths would still have occurred under the new laws, but these laws are likely to prevent many future assaults and possibly deaths.

Given the extent of current media, business and community opposition to these new restrictions on alcohol consumption, the O'Farrell government may well have judged that the hours it has fixed were all that would be politically feasible. It may also have been influenced by the fact that these same times have been very effective in reducing alcohol-related assaults in Newcastle.

The second set of measures is additional alcohol-related offences and the imposition of mandatory minimum sentences. It remains to be seen whether these changes have any impact on alcohol-related violence. The deterrence value of new offences and increased sentences has been questioned. The challenge being posed to judicial discretion is disturbing, as it removes judges' capacity to fix a sentence that they believe is appropriate in a particular set of circumstances. This may result in unduly harsh sentencing.

Mandatory minimum sentences are also likely to result in increased rates of incarceration. As imprisonment has not been shown to promote rehabilitation and is often linked to subsequent re-offending, it may be that these new laws and sentences actually worsen the criminal violence problem in New South Wales.

Politically, restricting drinking hours is likely to be initially unpopular, while imposing harsher sentences on those convicted of drunken violence is likely to be well-received by the electorate. The O'Farrell government may be attempting to balance a politically chancy set of laws and regulations with others that will be far more palatable.

Newspapers used in the compilation of this issue outline

The Australian: November 12, 2013, page 13, editorial, 'Why judges seem out of touch'.

<http://www.theaustralian.com.au/opinion/editorials/why-judges-seem-out-of-touch/story-e6frg71x-1226757654071>

The Herald-Sun: January 23, 2014, page 30, comment by Caterina Politi, 'Just one punch can bring a world of misery / This Australia Day, remember violence solves nothing'.

<http://www.heraldsun.com.au/news/opinion/this-australia-day-remember-violence-solves-nothing/story-fni0ffsx-1226807942886>

The Australian: January 23, 2014, page 11, cartoon. (no web link)

The Australian: January 22, 2014, page 11, editorial, 'This king-hit on drunken violence might not work'.

<http://www.theaustralian.com.au/opinion/letters/this-king-hit-on-drunken-violence-might-not-work/story-fn558imw-1226807171148>

The Australian: January 25, 2014, page 20, comment by Chris Kenny, 'Sobering statistics suggest O'Farrell may have overreacted, but is decidedly on to a winner'.

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