

Drinking water voluntary guidelines: licensed venues in Victoria



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Earlier this year, the Victorian Government introduced voluntary Guidelines for the provision of drinking water in licensed venues (**Guidelines**). The introduction of the Guidelines was partly prompted by health concerns, amid reports that some licensed venues were apparently shutting off cold water taps in bathrooms, thus forcing patrons to pay for expensive bottled water.

Reducing access to drinking water can lead to dehydration, which is often associated with the consumption of alcohol. Licensed venues owe a duty of care to patrons, which includes, generally speaking, a duty to serve alcohol in a responsible manner.

The Guidelines were introduced by the Honourable Bronwyn Pike MP, the Minister for Health. Ms Pike said that in establishing the Guidelines, the Victorian Government was "encouraging licensed premises to have free drinking water available to patrons at all times, on any premises where liquor is sold or supplied".¹ The Guidelines were prepared in consultation with Liquor Licensing Victoria, the Victoria Police and industry representatives including the Australian Hotels Association, the Nightclub Owners Association and Restaurant and Catering Victoria.

The Guidelines provide that licensed venues are required to abide by the following requirements:

- Free or reasonably priced drinking water will be available to patrons at all times on any premises where liquor is sold or supplied.
- Water should be sold or supplied at or near liquor service points, or by the same method that liquor is sold or supplied.
- When free drinking water is not feasible, a reasonable charge for drinking water will apply and must be less than the lowest price at which any alcoholic or non-alcoholic drink is sold on the premises.

To comply with the Guidelines, operators and owners of licensed premises can also choose from various options for providing drinking water including:

- Water by the glass/carafe from the bar or by waiter service (to a dining table);

- Bottled water; or
- Using a water cooler.²

The Guidelines also state that cold, unadulterated water should be available in bathrooms, but that compliance with the Guidelines will not be achieved by directing a patron to a venue's bathroom to obtain water. A twenty-four hour phone number, DirectLine, is available on 1800 888 236, for patrons to call if a licensed venue is not complying with the Guidelines.³

Prior to the implementation of the Guidelines, the Young Lawyers' Law Reform Committee (**Committee**) was interested in researching this issue, and was considering writing to the State Government to seek the introduction of legislation (in the form of amendments to the *Liquor Control Reform Act 1998* (Vic)) to address the situation. The Committee will examine the Guidelines to see whether they go far enough and whether legislative reform is still needed. For example, when will it be considered not to be "feasible" for a venue to charge for drinking water, and how will this be determined? What are the consequences for licensed venues if they consistently fail to comply with the Guidelines? It is submitted that a condition in a venue's liquor licence, requiring the venue to provide free drinking water to patrons, together with legislation prohibiting venues from shutting off cold water taps in their bathrooms, would be more effective than voluntary Guidelines.

In New South Wales, legislative changes have been introduced to address the issue. Amendments to the *Liquor Regulation 1996* (NSW), which were introduced in early 2003, require the provision of drinking water where liquor is served, to be either free of charge or to be sold to patrons at a "reasonable price". Guidelines regarding what is a "reasonable price" have now been introduced, which state that a "reasonable price" means "where drinking water is sold on the premises in a pre-packaged form, less than the lowest price at which an alcoholic drink is sold on the premises, and in any other circumstances, a nominal price".⁴ The New South Wales Department of Gambling and Racing has indicated that charging \$1 for a glass of tap water would be seen to be reasonable, with the charge to cover service costs.⁵

Accordingly, in both Victoria and New South Wales, owners or operators of licensed premises are,

notwithstanding the introduction of measures to address the issue, under no overall obligation to provide free drinking water to patrons, or to provide tap water to patrons.⁶

While the Victorian Guidelines are voluntary in nature, it is submitted that they go further than the NSW Guidelines, as the price for drinking water in Victoria should be less than the lowest price for any alcoholic or non-alcoholic drink, whereas in New South Wales, the price for drinking water should be less than the lowest price at which any alcoholic drink is sold on the premises. However, in New South Wales, the *Liquor Regulation 1996* makes the drinking water requirements a condition of a venue's liquor licence. Therefore, penalties can be imposed on venues for breaches of their liquor licenses, including breaches of the drinking water requirements.

The Committee will maintain a watching brief over reports of levels of compliance or otherwise with the Guidelines. Ms Pike also said that the Government would assess compliance with the Guidelines and that if they were seen not to be working, the Government would "consider introducing legislation to make the provision of free or low-cost drinking water compulsory". Whether it will prove necessary for legislation to be introduced will remain to be seen. ■

¹ Victorian Government Media Release, 'Licensed Venues sign up to Water Guidelines', 22 January 2004.

² Department of Human Services, 'Voluntary Guidelines to provide free or low cost drinking water on licensed premises', January 2004.

³ Victorian Government Media Release, 'Licensed Venues sign up to Water Guidelines', 22 January 2004.

⁴ New South Wales Department of Gaming and Racing, Information Sheet 6/03, 'Free or Reasonably Priced Drinking Water Compulsory in Licensed Premises'.

⁵ Ibid.

⁶ The author notes that many licensed venues in Victoria already provide free tap water to patrons, but presumably, the practices of those venues did not prompt the need for the Guidelines.