



Youth Parliament of Western Australia

Food and Beverage Marketing Bill 2024

Explanatory Memorandum:

The food and beverage sector is a cornerstone of Australia's industry and economy, with Australians spending up to one quarter of their net income on groceries. Consistent review and regulation in the sector is fundamental in establishing transparency, fairness, and safety for all.

The Food and Beverage Marketing Bill 2024 outlines new parameters and regulatory frameworks for the advertisement and marketing of food and beverage products in Australia.

The Bill is intended to implement meaningful and practical amendments to the scope of marketing for potentially harmful and/or addictive foods and beverages, such as liquor and unhealthy (or 'junk') food. According to the Australian Institute of Health and Welfare, over 67% of adults and around 25% of children aged 5-17 are overweight or obese. The measures in this bill provide for greater oversight into the marketing and advertising of such foods and beverages and therefore, reducing the risk of harm and addiction.

The Bill also introduces significant changes to the labelling requirements for beverages in Western Australia. These changes aim to promote informed consumer choices by providing clear and consistent information about the nutritional content of alcoholic drinks.

New regulation standards for the marketing of alcoholic products are established in addition to those outlined in the Alcoholic Control Act 1988. It introduces the prohibition of targeted promotional information for alcoholic products to audiences below the age of 18. It also prohibits liquor promotion on social media platforms and by sports-based and sports-linked organisations.

Additionally, the bill outlines new regulatory measures regarding the promotion and advertisement of unhealthy food, establishing guidelines and restrictions on the intended audience and location of such promotional materials.

The final measure of the bill follows regulations introduced in Chile in 2012 affecting the promotion of unhealthy food in manners that are targeted towards children.



Western Australia

Food and Beverage Marketing Bill 2024

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Youth Parliament of Western Australia

Food and Beverage Marketing Bill 2024

No. 1 of 2024

A Bill for

**An Act —
to regulate marketing practices within the food and beverage
industries in Western Australia.**

[Assented to 29 JULY 2024]

The Youth Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short Title

This is the *Food and Beverage Marketing Act 2024*.

2. Commencement

This Act comes into operation on the day on which this Act receives the Governor's Assent.

3. Terms used

In this Act, unless contrary intention appears —

Alcohol by volume (ABV) means a standard measure used to express the concentration of ethanol (ethyl liquor) in an alcoholic beverage. It is displayed as a percentage and represents the volume of pure ethanol present in 100 millilitres (mL) of the beverage at 20°C (68°F);

Department of Health means the Western Australian Government Department of Health;

Enforcement agency means an enforcement agency as defined in the *Food Act 2008*;

Food business means a business, enterprise or activity (other than a business, enterprise or activity that is primarily in the production of food) that involves—

- (a) the handling of food intended for sale; or
- (b) the sale of food, regardless of whether the business, enterprise or activity concerned is of a commercial, charitable or community nature;

Health Star Rating means the nutritional rating system administered by the Australia and New Zealand Food Regulation Ministerial Council;

Labelling means any written, printed, or graphic information that is—

- (a) displayed directly on the product including information affixed to the immediate container of the product, such as the can, bottle, or carton; or
- (b) attached to the product packaging: including information on any secondary packaging materials used to group or protect the product during transport, storage, and display. For example, boxes, bags, pallets, and shrink wrap;

Liquor means—

- (a) a substance intended for human consumption which at 20° Celsius contains more than 1.15% ethanol by volume, or such other proportion as is prescribed;
- (b) and any other substance prescribed as being liquor for the purposes of this Act; and
- (c) any thing that, for the purposes of sale, is held out to be such a substance;

Liquor packaging means any container or wrapping in which liquor is sold, distributed, or offered for sale. This includes, but is not limited to, bottles, cans, cartons, cases, and any other form of packaging that encases or contains liquor products;

Liquor promotion means any marketing, promotion, or content that encourages the consumption or purchase of liquor;

Multi-item package means a collection of two or more individual products or services that are grouped and sold together as a single unit;

Non-food item means any product that is not intended for human consumption, including but not limited to toys, books or stickers;

Nutrition Information Panel (NIP) means a standardised table on the label of a food product that displays the key nutrients and

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their quantities per serving size, allowing consumers to make informed choices about the nutritional content of the food they consume;

Platform means any venue for the distribution of media;

Sports-based association means any organization or group that is involved or based around sports, sporting activities, or the promotion of sports;

Unhealthy food means any food product that satisfies the definition of “unhealthy food” established by the Department of Health;

Young audience means anyone below 14 years of age.

Part 2 — Packaging Regulation

Division 1 – Mandatory honest labelling of alcoholic beverages

4. Mandatory labelling of alcoholic beverages

- (1) The producer of an alcoholic beverage that contains more than 1.15% alcohol by volume (ABV) must ensure the labelling of the beverage displays a nutrition information panel (NIP).
- (2) The NIP must display the following information in relation to the standard drink size for the beverage:
 - (a) Energy;
 - (b) carbohydrate content;
 - (c) Aalergen information (if applicable);
 - (e) caffeine content (if applicable); and
 - (d) sugar content.

Division 2 — Mandatory warning labels on liquor packaging

5. Mandatory warning labels

All liquor packaging will contain a warning label detailing the negative health and societal consequences of excessive liquor consumption.

6. Design of the warning labels

The Department of Health will design the warning labels according to the following guidelines:

- (a) The label must contain both text and images;
- (b) the label must discourage the consumption of alcohol;
and
- (c) warning label will cover 25% of the front surface area of the package.

Division 3 — Delayed commencement

7. Commencement

- (1) The relevant bodies corporate must comply with all regulations of Part 2, within one year of this bill receiving assent, on products that are printed after assent.
- (2) Despite subsection (1), the Minister may, by legislative instrument, fix an earlier day for the commencement of this Act, or a provision of this Act.
- (3) Exemptions to subsection (1) will be considered by the Department of Health on a case-by-case basis.

Part 3 — Regulation of the Marketing of Alcoholic Products

8. Audiences

- (1) It is prohibited to distribute liquor promotion to any audience where it is reasonable to believe that there will be at least 10% of the audience below the age of eighteen.
- (2) This concerns all settings such as—
 - (a) on specific television programs;
 - (b) at concerts; and/or
 - (c) at other group events.

9. Platforms

- (1) It is prohibited for businesses registered within Western Australia to distribute liquor promotion on all social media platforms.
- (2) This includes direct advertisements and promotions by individuals remunerated by alcoholic beverage manufacturers.

10. Sporting activities

- (1) It is prohibited for sports-based associations headquartered in Western Australia to accept sponsorship or any other form of advertisement from organisations promoting liquor, where the sponsorship or advertising deal includes the promotion of liquor.
- (2) Liquor promotion in formats other than on sports teams' uniforms during sporting activities taking place within Western Australia is prohibited. This includes—
 - (a) liquor promotion on television; and/or
 - (b) liquor promotion within the venue at which the sporting activity is taking place.

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Part 3 Regulation of the Marketing of Alcoholic Products

Division 3 Delayed commencement

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- (3) Liquor promotion is prohibited on goods produced or sold in Western Australia by sporting organisations such as on—
- (a) sports associations' uniforms;
 - (b) merchandise; and/or
 - (c) any other products.

Part 4 — Regulation of the Marketing of Unhealthy Food Items

Division 1 — Definition of unhealthy food

11. Unhealthy food guidelines

The Department of Health will publish guidelines that will provide the definition of unhealthy food for the purposes of this legislation, to be called the ‘Unhealthy Food Guidelines’.

12. Guidelines for the Unhealthy Food Guidelines

- (1) The Unhealthy Food Guidelines must include, but are not limited to—
 - (a) nutritional information criteria that will cause food items to be considered ‘unhealthy food’, such as—
 - (i) salt content;
 - (ii) sugar content;
 - (iii) number of calories;
 - (iv) caffeine content; and
 - (v) any other nutritional information;
 - (b) specific food items that are or are not to be considered as unhealthy food; and
 - (c) definitions for both a single serving size and a whole package.
- (2) Any changes to the Unhealthy Food Guidelines must be published at least 6 months before going into effect.

Division 2 — Physical advertising channels

13. Prohibited Advertising Locations

Businesses which primarily sell unhealthy food cannot advertise within a 200-metre radius around children-orientated places, including but not limited to—

- (a) schools and other educational settings;
- (b) youth sporting clubs;
- (c) family areas;
- (d) playgrounds/family parks; and
- (e) family-orientated events.

14. Sponsorship

Businesses which primarily sell unhealthy food cannot offer sponsorship to events, sports clubs or other activities primarily targeted at children, in exchange for promotional opportunities.

15. Transport advertisement

The advertisement of unhealthy food is prohibited on all Public Transport (i.e Transperth) Services in all capacities, including but not limited to—

- (a) posters on buses and trains;
- (b) advertisements in bus and train stations; and
- (c) advertisements on bus stops.

Division 3 — Digital Advertising Channels

16. Social Media

Advertisements on social media platforms for unhealthy food must not specifically target those under the age of eighteen.

17. Mobile Apps

In-game advertisements or branded content within apps designed for children, including educational and entertainment apps must not include any unhealthy food advertisements.

Division 4 — Marketing of Unhealthy Food Around Schools

18. Vicinity of fast-food chains

- (1) Fast food chains are prohibited from operating within a 200-metre radius of primary schools, high schools, and educational facilities.
- (2) Existing establishments within the restricted area are granted a five-year exemption period to relocate their operations outside of the restricted zones.

19. Fast-food service during school hours

- (1) During regular school hours, students wearing school uniform are prohibited from being served at fast food outlets.
- (2) Students with a valid Department of Education Leave pass are exempt and may be served at fast food outlets.

Division 5 — Health Stars Rating

20. Mandatory Health Stars Rating

All food and beverages sold in Western Australia must display their Health Star Rating on their packaging in accordance with the guidelines issued or approved by the Australia and New Zealand Food Regulation Ministerial Council.

Division 6 — Promotion of Highly Caffeinated Drinks

21. Marketing of highly caffeinated drinks

The advertisement of any product containing caffeine levels exceeding 60mg must—

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Part 4 Regulation of the Marketing of Unhealthy Food Items

Division 6 Promotion of Highly Caffeinated Drinks

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- (a) clearly disclose the caffeine content in any promotional material;
- (b) clearly display caffeine content on the label;
- (c) not target young children; and
- (d) inform about the presence of other potentially addictive ingredients.

22. Access of high caffeinated drinks to minors

- (1) Beverages containing caffeine levels exceeding 60mg must not be readily available for purchase by individuals below the recommended age for said beverage.
- (2) The recommended age must be clearly displayed on the beverage, as well as in any advertisements for that beverage.
- (3) High caffeinated drinks must explicitly state on the packaging of the beverage and associated promotional information that the product is not intended for consumption by children.

Part 5 — Regulation of Unhealthy Food Promotions

23. Banning the Sale of Unhealthy Food with Non-Food Items

Food businesses are prohibited from—

- (a) the sale of unhealthy food items as part of a multi-item package with non-food items;
- (b) the purchase of a unhealthy food item being a necessary prerequisite for the purchase of any non-food item;
- (c) the purchase of a unhealthy food item providing any form of discount on the price of any non-food item; and
- (d) the purchase of any unhealthy food item providing the purchaser any form of promotion including—
 - (i) gift cards;
 - (ii) coupons; or
 - (iii) in-store credit.

24. Penalties

- (1) The investigation of any violations of the regulations established in section 22 will be conducted under the framework of the *Food Act 2008*.
- (2) The Department of Health may designate or create an enforcement agency for this purpose.
- (3) The enforcement agency may designate authorised officers, as defined in the *Food Act 2008*, with all the powers and duties prescribed.
- (4) Improvement notices and Prohibition orders may be administered to food businesses found to have violated section 4, under Part 6 of the *Food Act 2008*, by the enforcement agency.

Part 6 — Penalties for Violations of the Act

Division 1 — Investigation of potential violation

25. Investigation of violations

- (1) The investigation of any violations of the regulations established in Parts 2-5 will be conducted under the framework of the *Food Act 2008*.
- (2) The Department of Health may designate or create an enforcement agency for this purpose.
- (3) The enforcement agency may designate authorised officers, as defined in the *Food Act 2008*, with all the powers and duties prescribed.
- (4) Improvement notices and Prohibition orders may be administered to food businesses found to have violated section 4, under Part 6 of the *Food Act 2008*, by the enforcement agency.

Division 2 — Penalties

26. Violations of Part 2

- (1) Violations of the regulations established in Part 2 will result in a fine of \$10,000;
- (2) Any fines may be appealed or contested to the Department of Health within 30 days of notice.

27. Violations of Part 3

- (1) Violations of the regulations established in Part 3 will result in a fine of \$10,000 to the organisation promoting the liquor product/s.

- (2) Liquor manufacturers found to have solicited promotional materials contrary to the restrictions established in Part 3 shall be fined \$100,000 per violation.
- (3) Any fines or review decisions may be appealed or contested to the Department of Health within 30 days of notice.

28. Violations of Part 4

- (1) Violations of the regulations established in Part 4 will result in a fine of \$10,000 for corporates and \$5,000 to small businesses.
- (2) Violations of the regulations established in Part 4 will further a review of the offending food business registration and license.
- (3) Any fines or review decisions may be appealed or contested to the Department of Health within 30 days of notice.

29. Violations of Part 5

Any food business found to have violated any of the prohibitions established in Part 5 will be fined \$100 per infringement.