

Pregnancy Warning Labels

What you need to do and when you need to do it.

Introduction

On 17 July 2020 the Ministerial Forum on Food Regulation agreed to mandate a pregnancy warning label on all alcohol packaged for retail sale. While we supported the concept of a mandatory label, we were disappointed that the Forum chose (by a vote of 6-4¹) to approve a design that requires winemakers to use three mandated colours – black, white and red. However, the decision is made and we have no choice but to accept it.

The Ministerial Forum did make some sensible concessions compared to the earlier draft presented to it by Food Standards Australia – New Zealand (FSANZ). These included:

- Acceptance of the headline message “PREGNANCY WARNING” as opposed to “HEALTH WARNING”, which did not address the issue at hand in a targeted way, and would have set a terrible precedent for future regulatory decisions; and
- An extension of the transitional period from two years to three years.

The formal variation to the Food Standards Code is at **attachment A**, but this information sheet seeks to provide plain-English guidance for winemakers about what they need to do, and when they need to do it. You should, however, refer to the documentation at **attachment A** for definitive advice for your business.

Question 1: What products are captured by this requirement?

The mandatory pregnancy warning label must be applied to all alcoholic beverages with more than 1.15% alcohol by volume sold in Australia. The label must be applied to both the inner package (the bottle/cask/can) and the outer package (for example, a display box). There is some uncertainty about how cartons and boxes are treated under this new requirement.

We are seeking clarity from Food Standards Australia – New Zealand (FSANZ) on this issue², as in our view, cartons are primarily used as a transport vessel, just as a plastic bag is if you purchase a single bottle at a bottle shop, and therefore, is not necessarily designed as a unit for retail sale.

¹ The Federal Government, along with the governments of South Australia, Queensland and New South Wales voted in favour of a more cost effective option for producers, while the Governments of New Zealand, Western Australia, Tasmania, Victoria, the Northern Territory and the Australian Capital Territory voted in favour of the three-colour option.

² While the document at **attachment A** (refer to 1.1.2 on pages 2 and 3) clearly states that the mandatory pregnancy warning label must be applied to outer-packaging, it also says that the label should only be applied to a *prescribed alcoholic beverage* that is either “for retail sale” or “sold as suitable for retail sale without any further processing, packaging or labelling”. It goes on to say that a *prescribed alcohol beverage* does not include a beverage that “is sold for retail sale; and is packaged in the presence of a consumer”. Australian Grape & Wine argues that wine cartons are primarily a transport vessel, as opposed to a vessel designed for retail sale, and therefore should be exempt from the mandatory requirements.

Question 2: What does the mandatory warning label look like?

The mandatory pregnancy warning label below must be applied in its entirety - exactly as designed by FSANZ. This includes the pictogram element, the headline "PREGNANCY WARNING" message, and the statement that "Alcohol can cause lifelong harm to your baby".



The only exception to this requirement is for alcoholic beverages with a capacity of 200ml or less. For wine producers, this would include, for example, miniature bottles typically served to customers on commercial flights. In this instance, only the pictogram element (the pregnant lady with the strike through it) must be applied to the label (further information in relation to sizing can be found below, in response to Question 3).



The specific colour and font requirements can be found at page 6 of **attachment A**, but the key points are:

- The background of the warning label must be white (not cream etc.)
- The pictogram must be presented as the pregnant lady holding a glass of wine in black (not grey, or any other colour), and the circle and strikethrough presented in red.
- "Sans-serif" typeface must be used for both the signal words "PREGNANCY WARNING" and the statement "Alcohol can cause lifelong harm to your baby".
- The signal words "PREGNANCY WARNING" must be presented in red, in bold font and in capital letters.
- The statement "Alcohol can cause lifelong harm to your baby" must be presented in black and in sentence case".
- The border of the warning label must be presented in black.
- The warning label must be displayed on the package with "a clear space" that
 - o "surrounds the outside of the border"; and
 - o Is at least 3mm in width.

Question 3: How big is the mandatory warning label?

Size requirements vary depending on the size of the package (bottle/cask/can etc.), and the number of layers of packaging the product has.

Tables 1 and 2 below are taken from **attachment A** (see pages 5 and 6) and they provide further formal detail about the sizing required.

Table 1: Size requirements for prescribed alcohol beverages with one layer of packaging), or, for an individual unit (eg: a single bottle of wine, or a cask)

Column 1	Column 2	Column 3	Column 4	Column 5
Prescribed alcoholic beverage	Pregnancy warning label to be displayed	Size of the *pregnancy warning pictogram or the pictogram of a *pregnancy warning mark	*Size of type of the signal words	*Size of type of the statement of a pregnancy warning mark
A *prescribed alcoholic beverage with a volume not more than 200 ml.	The *pregnancy warning pictogram.	At least 8 mm diameter	Not applicable	Not applicable
A *prescribed alcoholic beverage with a volume more than 200 ml but not more than 800 ml.	The *pregnancy warning mark.	At least 6 mm diameter	At least 2.1 mm	At least 1.6 mm
A *prescribed alcoholic beverage with a volume more than 800 ml.	The *pregnancy warning mark.	At least 9 mm diameter	At least 2.8 mm	At least 2.1 mm

Table 2: Size requirements for an outer package (eg: a carton or display box)³

Column 1	Column 2	Column 3	Column 4	Column 5
Prescribed alcoholic beverage	Pregnancy warning label to be displayed	Size of the *pregnancy warning pictogram or the pictogram of a *pregnancy warning mark	*Size of type of the signal words	*Size of type of the statement of a pregnancy warning mark
A *prescribed alcoholic beverage with: a volume not more than 200 ml; and packaging that includes only one *individual unit.	The *pregnancy warning pictogram.	At least 8 mm diameter	Not applicable	Not applicable
All other *prescribed alcoholic beverages.	The *pregnancy warning mark.	At least 11 mm diameter	At least 3.5 mm	At least 2.7 mm

Question 4: Are there any exemptions?

The mandatory pregnancy warning label must be applied to all alcoholic beverages with more than 1.15% alcohol by volume sold in Australia. The only exemption is for those products with a volume of not more than 200ml, in which case, only the pictogram element of the warning label applies.

While not an exemption, we note that the requirement does not apply to wines exported outside of Australia (although producers obviously must comply with local laws in these markets). This means that wines exported to other markets do not need to comply with this requirement.

³ Note footnote 1, which explains that we are seeking clarification about how this mandatory requirement applies to cartons.

Question 5: When do I have to put this warning label on my wines?

There is a three-year transition period, commencing on 31 July 2020 and ceasing on 31 July 2023. You may, if you choose to do so, apply the mandatory warning label ahead of 31 July 2023.

Question 6: What about existing stock in the market?

You are not required to re-label any stock currently for sale in the market. This applies both during the transition period, and after the transition period has ended.

Question 7: What about museum stock, or cellar releases?

Page 2 of **attachment A** states that "A food product that was packaged and labelled before the end of the transition period may be sold after the transition period if the product complies with one of the following":

- a) "the Code as in force without the variations made by this instrument" (in plain English, this means under the old arrangements, when not mandatory pregnancy warning label was required); or
- b) "the Code as amended by the variations to this instrument" (in plain English, this means if the product is labelled during the transition period)

This could create a problem for those wineries that bottle wines and lay them down for a later release with the intention of labelling them later on. Take the following as an example:

- If "Winery A" produces a 2020 Semillon, bottles it and lays it down in the cellar for release in 2025, and chooses to label in 2025, this wine would be required to carry the mandatory pregnancy warning label. This is because it was not labelled before the end of the transition period.
- If "Winery B" produced a 2020 Semillon with a view to releasing it in 2025, but labelled it before 31 July 2023, they would not be required to use the mandatory warning label.

Question 8: Is there an opportunity to challenge the Ministerial Forum's decision?

Unfortunately, our avenues for challenging this decision have been exhausted. The decision is final and will not be changed.

Question 9: Can I use stickers or does it need to be printed onto the label/packaging?

You can use stickers as opposed to printing the warning label, provided they meet the labelling requirements (size, colour, placement etc.) as outlined above.

Question 10: What about bottled or packaged wine for export, that isn't being sold in Australia?

The pregnancy warning label is an Australian requirement. Australian wine exported to other countries will have to ensure it is compliant with the destinations labelling requirements. As every market is different Australia's pregnancy warning logo may not be suitable or legal in some markets. Over stickering or alternate export labels may be required. Refer to [Wine Australia export](#) compliance guidance for further information.

Question 11: Does the label apply to imported products?

The mandatory pregnancy warning label must be displayed on any alcohol presented for retail sale in Australia. This includes imported products.

Question 12: Should I continue to use other responsible drinking messages on my label?

Retention of the *Get the facts* DrinkWise.org.au message is extremely important in providing consumers with a source of health messaging and information. Australian Grape & Wine strongly encourages all producers to include the *Get the facts* logo when they revise their labels to include the new pregnancy warning message.

Get the facts **DrinkWise.org.au**

Industry-wide inclusion of the Get the facts DrinkWise.org.au on products and packaging ensures consumers are provided with a consistent source of evidence-base information about their alcohol consumption and relevant moderation messaging. In addition to the body health tool and standard drinks calculator, the DrinkWise website provides consumers with information about topics such as parental influence and Fetal Alcohol Spectrum Disorder (FASD) as well as timely information during events such as the COVID-19 pandemic, which has seen concern surrounding alcohol use during times of increased anxiety and stress. The website also provides consumers with a range of referral services should they require assistance. Retention of Get the facts DrinkWise.org.au illustrates a proactive approach of industry towards consumer health.

Question 13: Where can I access the pregnancy warning graphics to apply to my label?

FSANZ has today made the downloadable labels available on its website. The labels can be found at the following link: <https://www.foodstandards.gov.au/industry/labelling/Pages/pregnancy-warning-labels.aspx>

Question 14: Who can I contact for further advice?

In the first instance, you should contact Lee McLean, General Manager, Government Relations and External Affairs, Australian Grape & Wine on Ph: 0418 998 749 / Email: lee@agw.org.au