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Before the Maryland Alcohol Regulation Task Force

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Alcohol Regulation: Balancing Public Safety and Business Needs

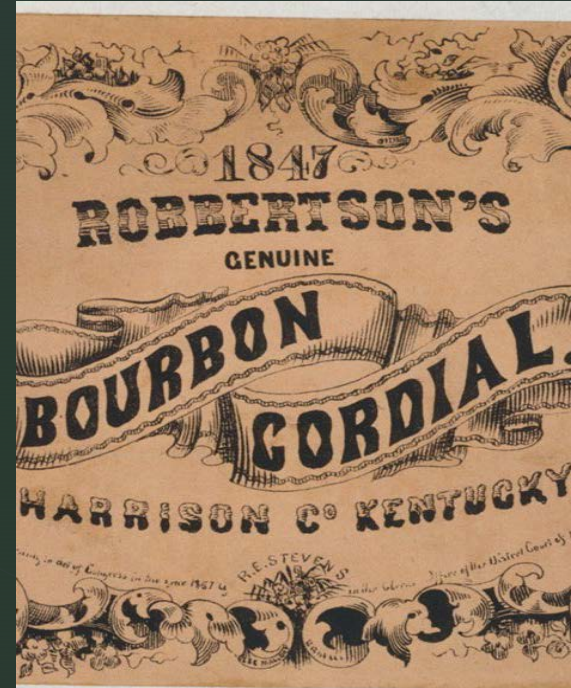
Introduction

- Purpose is to provide insight and information from my 20 plus years of work as a regulator, prevention advocate and educator. I currently maintain an educational program called the Campaign for a Healthy Alcohol Marketplace. I produce a monthly newsletter, reports on various subjects, and serve as a legal expert in court cases. I have worked with over 20 states on various alcohol issues.
- Today I will cover these topics:
 - Brief history
 - Basic design of our state-based regulatory system
 - How states are similar and different
 - How it has worked
 - Advantages of the “control system model”
 - Location for best operation and the need to run an efficient business
 - Deregulation concerns

Brief history helps explain our system

- Two major experiences with marketplace problems:
 - Poorly regulated market before Prohibition.
 - Completely illegal market during Prohibition.

In addition, alcohol products have often been an important commodity for the economy.



- **"Those who cannot remember the past are condemned to repeat it."** *George Santayana, Reason in Common Sense, The Life of Reason, Vol.1.*

Before Prohibition: “For generations, Americans had been heavy drinkers, and by 1900 saloons were identified with political corruption, gambling, crime, poverty and family destruction.” *W. J. Rorabaugh, University of Washington Historian*

Alcohol sold in bars (called saloons) owned by **large, out of state manufacturers.** Most were “Tied Houses” meaning they could only sell the manufacturer’s product. Each manufacturer had a saloon crowding town centers.

- Competition was fierce. Aggressive sales—with lot’s of inducements-- promoted **high volume drinking.** Workers would often drink up their family’s paycheck.
- **Social problems:** public disorder, intoxication and addiction, family wages squandered, prostitution, gambling.
- This situation led to the extreme solution of national Prohibition.



Prohibition solved some problems but fostered others.

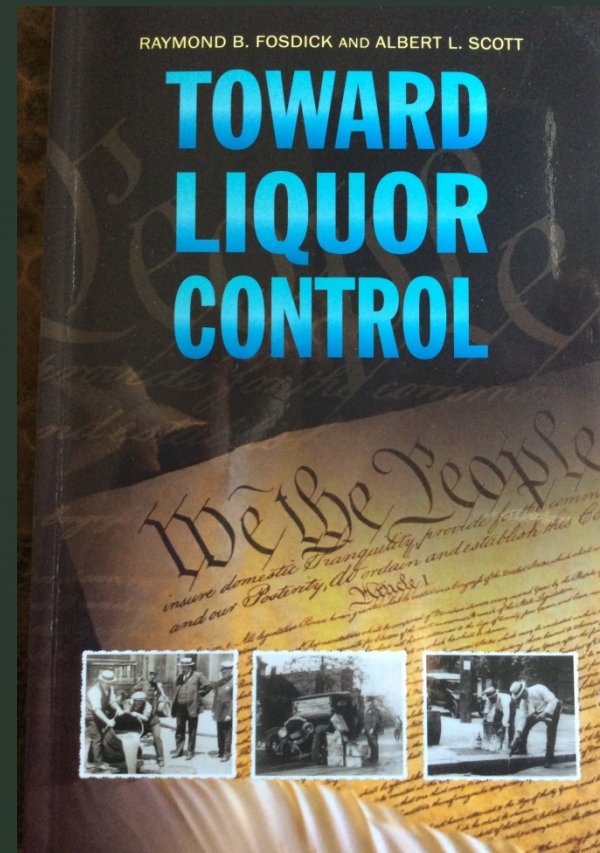
- Prohibition was successful in reducing drinking rates, eliminating public order problems, and reducing social problems.
- But, nationally organized crime syndicates developed to supply alcohol. Enforcement was weak.
- Illegal retail outlets, called “speak-easies”, sprung up to accommodate drinkers.
- Eventually, Prohibition was repealed. States got the primary responsibility to regulate alcohol as the federal approach indicated that one size does not fit all.
- Prohibition re-set our relationship with alcohol. Drinking rates did not immediately return to levels before Prohibition and alcohol issues passed into the background.



The 21st Amendment repealed Prohibition and gave primary responsibility for regulation to the states

*Since states had little experience in alcohol regulation, John D. Rockefeller financed an extensive study of regulation around the world and produced a work entitled *Toward Liquor Control*. It became the blueprint for state regulation:*

- *Recommended a “Control System” over “License System”.*
- *Recognized that many states would adopt a “License System.”*
- *Extensive recommendations for all systems.*



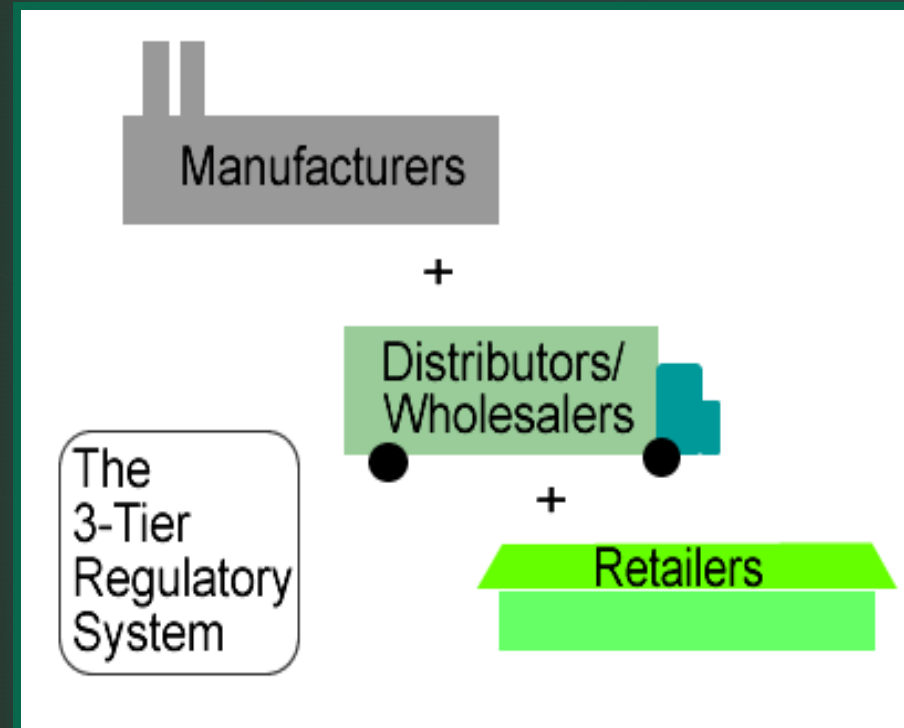
Regulation was designed to curtail the kind of local market domination that produced high volume sales and extensive social problems.

- **Reduce adverse impacts of “the profit motive”** such as price wars, incentives to consume in high volume.
- **Prevent “vertical integration”** or inducements which tie manufacturers to retailers.
- Curtail public order problems created by saloons, including **outlet density restrictions**, limits on hours of sale and measures to encourage less drinking in public.
- **Greater restrictions on high alcohol content products**; make “lighter alcohol content” products more widely available.
- **These things worked and they still work today** although there are efforts to allow alcohol to be sold in a “free market” which would take us back to Pre-Prohibition days.

- *“The ‘tied house’ system had all the vices of absentee ownership. The manufacturer knew nothing and cared nothing about the community. All he wanted was increased sales. He saw none of the abuses, and as a non-resident he was beyond local social influence.” Fosdick and Scott, *Toward Liquor Control*.*

A prominent feature of state and federal regulations is the three-tier system.

- The regulatory structure features a closed system of product sale.
- All products must go from a licensed manufacturer or importer to a licensed wholesaler to a licensed retailer.
- Each tier is usually required to be independent of the other which prevents vertical monopolies.
- Wholesalers usually collect excise taxes and track all bottles and cans. This has resulted in high tax collections and very safe products.



Toward Liquor Control discussed two different systems of regulation: a “License System” and a “Control System.” Their recommendation was a “Control System.”



These are actually similar systems in that all states:

- *License everyone who sells alcohol.
- *Require products to flow through a closed 3-tier system.
- *Enforce laws to reduce underage and excessive drinking.
- *Regulate such things as days/hours of sale, location of premises, and density of outlets.

The difference is that state and local “Control Systems” own part of the alcohol business—usually the wholesale and retail operation. The purpose is to limit some of the adverse impacts of the profit motive and apply more revenue to ameliorate social problems.

Another difference is where retail regulation is done: primarily state, primarily local, or dual license. State licensing is better at ensuring consistency and uniformity whereas local licensing allows greater attention to community alcohol problems (...but can involve favoritism toward some local businesses).

Examples: Primarily state: Oregon, Washington, California. Primarily local: Nevada, Wisconsin, Minnesota. Dual license: Georgia and Illinois.

A major advantage of control systems is the greater ability to fully employ strong strategies as recommended by public health authorities. Control systems also collect greater revenue.

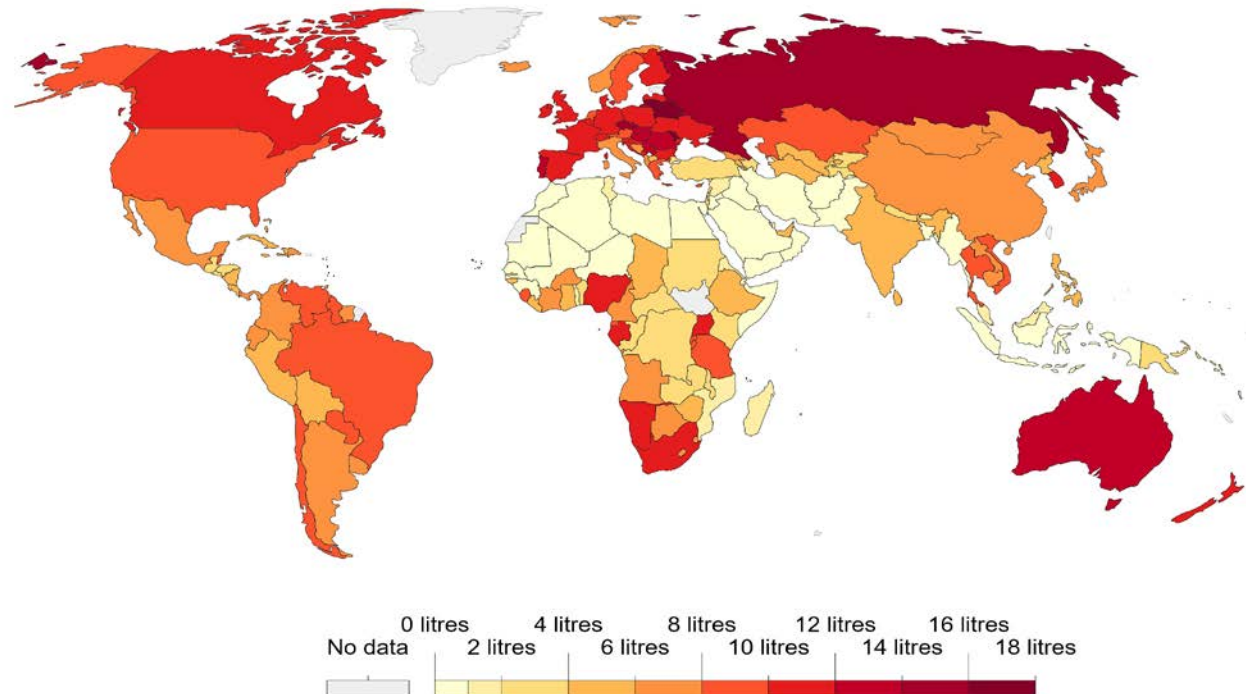
1. **Price is one of the strongest measures to control consumption:** Control jurisdictions set the prices and are able to ensure they are balanced: not too high to induce bootlegging and not too low to increase consumption, particularly among youth.
2. **Promotion and advertising can induce sales and encourage youth to drink:** Because control jurisdictions own the product, they can determine the retail advertising and promotion policy.
3. **Products that are dangerous can be curtailed or kept out of local markets:** Control jurisdictions can decide what products are in their market via the listing process. In that way they can avoid listing products that might be a public health/safety hazard.
4. **Place and availability:** Research demonstrates that greater availability tends to increase problems. Control jurisdictions can limit the availability of alcohol products by curtailing the location of outlets and the hours and days of sale.

So how does our system compare with others?

- Alcohol consumption and abuse are impacted by many things including weather, religion, age, economic status and policy.
- New study indicates greater drinking in Northern climates is due, in part, to the weather: **“Colder weather and fewer sunlight hours increase alcohol consumption and alcoholic cirrhosis.”**
- The US is not among the heaviest drinking nations in the world and maintains a relatively moderate drinking level.
- In the US our drinking levels are also higher in Northern states and lower where religion has a major cultural influence.

Total alcohol consumption per capita (litres of pure alcohol), 2015

Total alcohol consumption per capita is based on projections for the amount of alcohol consumption (litres of pure alcohol) per person ages 15+ per year.



Source: World Bank – WDI

Strong policies make a difference according to the first study of multiple policies.

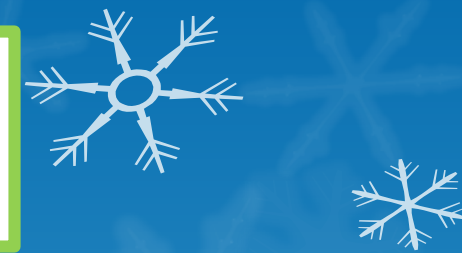
- Dr. Tim Naimi, Boston University, and colleagues created an alcohol policy score and ranked each state based on their policies.
- “We found that states with stronger and more effective alcohol policies had less binge drinking than states with weaker alcohol policies”.
- Data is at the state level, so there is no ranking for Montgomery County. But, Maryland, as a state, is ranked in the second to lowest category.



Organization and location for “Control System” business—what is best?

- Enough independence to operate using business principles.
- Product listing, pricing, inventory management based on sales performance and other objective criteria.
- Ability to respond quickly to meet business needs. Retail and wholesale operation based on business performance.
- Politics can be a source of inefficiencies such as lobbying by suppliers to get product in stores.
- Bureaucracy can be a source of waste and can adversely impact business performance: accounting designed for government v. business; overly complex contract processes; need to run decisions up several layers to finalize will slow decision-making.
- Not so much independence that public health and safety are forgotten. “Russian Roulette Vodka”, Everclear and other high proof products, diligent ID checking.





The good news: The public is very supportive of alcohol policies. When asked about setting alcohol policies, the results show a strong priority for public health and safety. *Source: Center for Alcohol Policy 2017 survey.*



As you may know, states do regulate alcohol by crafting rules that are unique to their state. Sometimes changes are considered. The following is a list of concerns some people say that lawmakers should consider when setting alcohol regulations. Using a scale of 0 to 10, please indicate how important each of these considerations should be when deciding alcohol regulations: 10 is very important, 0 is not at all important and 5 is a neutral rating.



Deregulation Issues

- Large national chains want to sell all forms of alcohol in grocery, convenience, and large liquor stores. They file lawsuits when legislatures won't change laws. Some large chains bring positives; but others bring the problems of the absentee owner who is unresponsive to local alcohol issues.
- Non-traditional businesses also want to sell alcohol by the drink (salons, laundromats, grocery stores). May not be set up for basic duties such as monitoring drinking behavior or ensuring no alcohol for underage customers.
- Delivery of alcohol products directly to customers' homes may not effectively prevent sales to minors and intoxicated persons.
- Unintended consequences of the "craft" suppliers revolution:
 - Special privileges designed for start-ups can be a loop-hole for large suppliers that want to get into the retail sector. Several large companies have purchased "craft" operations and, in some cases, received retail privileges.
 - Tasting rooms that become full scale on-premise retailers without the same requirements other retailers and sometimes at a substantial lower cost. Presents a situation of unfair competition for established retailers.
 - Additional licenses to allow "craft" suppliers to operate outside the three-tier system increase license and enforcement work.

Potential damage to three-tier system could impact tax collection, product safety and prevention of vertical monopolies. Eventually our selection, product innovation, and competitive environment could deteriorate. Small "craft" operators could be squeezed out by large companies.



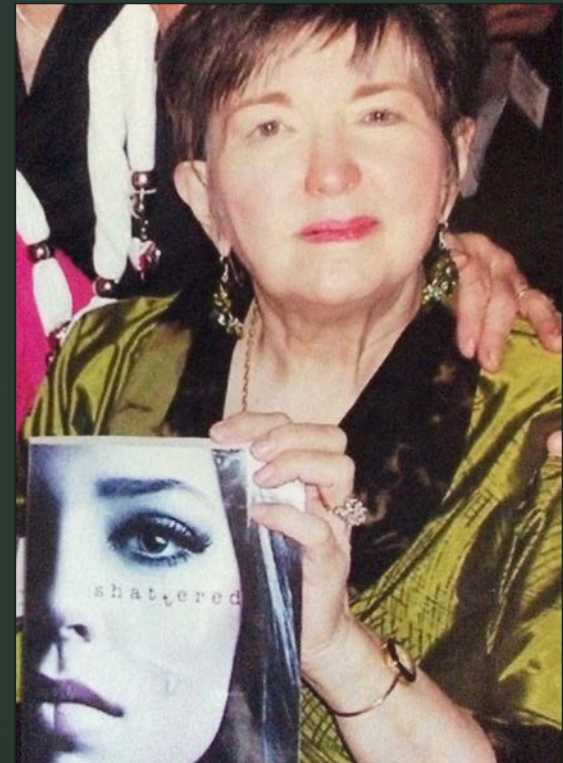
Recommendations

- Recognize the value of current system: safe products, high revenue, strong policies, less market domination. Assess your system based on the science which identifies the strongest policies. Consider the resources needed for enforcement.
- Understand that there is substantial public support for most current alcohol regulation; and, people are more concerned about public health and safety than increasing their buying options.
- “Go slow” when considering changes to regulations and assess the potential impact on public health and safety, tax collection, product safety and damage to the three-tier system.
- Recognize the need to limit outlets especially those that don’t allow sufficient opportunity for customer observation.
- Ensure that retail requirements apply to all.
- Avoid overcomplicating licenses by adding all kinds of new licenses for small suppliers. Instead explore ideas for simplification.

The overall objective is to reduce the harm alcohol creates for our citizens yet allow alcohol businesses to operate profitably

- Alcohol causes great harm resulting in 88,000 annual deaths. The deaths on our roadways are over 10,000 per year and injuries are over 290,000.
- The cost of alcohol harm is estimated by CDC to be \$249 billion annually. Revenue from alcohol regulation does not come close to covering this cost, but control systems, on average, provide more.
- An example is Janet Snyder of Minnesota. In her 30's, she and her husband were hit by a drunk driver. He was killed and she was so badly injured that she needed round-the-clock care for 3 years. For the next decades, she was able to live independently. But now she is in her 70's and once again needs 24/7 care. Can you imagine the cost for just one person? All of us pay with increased insurance, health care, law enforcement and other costs.
- She published a novel based on her life.

While alcohol businesses are important for our economy, public health and safety are primary. Alcohol regulation helps strike the balance needed for businesses to be profitable.



For more information: contact Pamela Erickson,
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www.healthyalcoholmarket.com.



Website has:

- Monthly newsletter, educational pieces, PowerPoint presentations from conferences. (These are free!)
- Recent reports available: “Special Rules for Small Brewers, Wineries and Distillers” and “Fair Trade Practice Regulations.” (Free download)
- Issue Briefs has simple explanations of alcohol regulatory issues as well as citations for research and more information.