

**Maryland General Assembly
Task Force to Study State Alcohol Regulation,
Enforcement, Safety, and Public Health**

D. Bruce Poole, Chair

**Room 230, House Office Building, House Economic Matters Committee Room
Monday, January 7, 2019, 10:00 a.m.**

Proposed Recommendations for Discussion

Bruce Poole (1-7)

1. Recommend increasing the positions in the Field Enforcement Division, to keep pace with the increase in alcohol outlets.
2. Recommend legislation to implement “place of last drink” tracking, which would require law enforcement to track the establishments that have furnished the last drink to persons stopped for alcohol influence offenses and then visit those establishments and confer with the ownership or license holder.
3. Recommend legislation to amend the current prohibition on furnishing or allowing underage consumption – §§ 10–117 and 10–119 of the Criminal Law Article – to authorize possible incarceration for a violation that involves home parties.
4. Recommend establishing a new separate agency in charge of regulating and enforcing alcohol, tobacco and motor fuel laws in Maryland and related public health considerations. Have that agency responsible for educating the public through resource sharing and an information clearinghouse about such things as recent increases in alcohol content for popular beer and other beverages, proper limits of drinking for adults and the adverse consequences for breaking the limits, parent or adult responsibility for serving alcohol to minors, etc. The clearinghouse could also be a mechanism for coordinating outreach and enforcement across jurisdictions and among enforcement agencies.
5. Recommend prohibiting that regulator from accepting any donations from entities or individuals associated with the alcohol, tobacco, or motor fuel industries.
6. Recommend larger and more conspicuous labeling of alcohol content for any alcoholic beverage sold in Maryland with an alcohol content in excess of 4.5%.
7. Recommend curtailing any further expansion of "one stop shopping" whereby alcohol can be purchased with groceries and other retail goods.

Dr. Eck and Dr. Jernigan (8-32)

Statewide general recommendations

8. Require a public health impact statement for all liquor law changes
9. Adopt a statewide civil social host law
10. Adopt a statewide dram shop law (also known as commercial liability)
11. Recommend adequate staffing and funding minimums for liquor board administrative, education, and enforcement activities

Alcohol Awareness Program recommendations

12. Mandatory certification in an approved Alcohol Awareness Program for all license holders, managers, and servers
 - *Current statewide law requires training for: “A holder of any retail alcoholic beverages license or an employee designated by the holder...” (§ 4-505. Alcohol awareness prog.)*
13. Mandate at least one employee who is certified in an Alcohol Awareness program to be on-site with no exceptions
 - *No statewide on-site requirement*
 - *Some jurisdictions have carved out exceptions, but the statewide minimum should not include exceptions*
14. Remove the exception for requiring Alcohol Awareness training for temporary licenses
15. Enforce the requirement to report program trainees to local jurisdictions
 - *Currently there is a requirement that the Alcohol Awareness trainers send the names of trained individuals to local jurisdictions, but they usually do not (§ 4-505. Alcohol awareness program)*
 - *If a statewide database were to be created, it would void this requirement (see below)*

Data collection recommendations

16. Mandate place of last drink data collection for law enforcement throughout the state
17. Maintain statewide database of individuals trained in an Alcohol Awareness program
18. Maintain *accurate* statewide database of all licenses which is updated 30 days after renewal date of May 1 of each year. Old license lists should be maintained for three years and then archived, but not destroyed
 - *There is a statewide license database, but according to many jurisdictions it is not accurate or updated often*

Recommendations related to enforcement activities (including inspections and compliance)

19. Require that a minimum of 25% of a liquor board's budget (or a certain effective percentage) must be dedicated to administrative enforcement activities, such as inspections, compliance checks, overservice operations, trade practice violations, etc.
 - *All jurisdictions budget for routine inspections, however most do not routinely perform other effective enforcement activities such as compliance checks or they rely on occasional grants leading to a lack of consistency in enforcement*
20. Require alcohol compliance checks whereby each license is checked at least once a year
 - *Look at tobacco programs for a model*
21. Recommend a minimum ratio of inspectors per licensed outlet
22. Adopt a compliance program to allow liquor boards to suspend a liquor license for being out of compliance with its license type
 - [See Pennsylvania Liquor Control Board's Compliance Program for guidance.](#)
23. Add statewide emergency suspension provision granting liquor boards the power to immediately suspend a license when death or serious injury occurs
 - *Virginia recently instated this policy and would be willing to share their experience*

24. Require liquor inspections to be based on data (licensee's violation history, EMS calls, 911/311 calls, etc.) to ensure resources are being allocated based on where the greatest need is instead of quantity (# of inspections per year)
 - *Generally jurisdictions inspect all outlets a minimum number of times a year regardless of past good/bad actions*
25. Mandate reporting between local police and liquor boards
 - *Currently no requirement for reporting*
26. Develop mandatory training for liquor inspectors based on best practices
 - *Currently no training required or available*
27. Expand powers for liquor inspectors to the immediate surrounding area of the licensed premise

Licensing/administrative penalty recommendations

28. Require that state issued licenses and permits must be reported to the local jurisdiction within 10 days of receipt of application
 - *Currently no requirement to alert local jurisdiction of pending licenses or permits*
29. Expand the lookback period for enhancing administrative penalties to a minimum of 4 years (the same time frame the Alcohol Awareness Program certificate is valid)
 - *Currently no statewide requirements or guidelines*
30. Graduated sanctions for Sales to Minors and Sales to Intoxicated Persons violations
 - *Currently no statewide requirements or guidelines*

Alcohol Regulatory Authority

31. Keep taxation in the Office of the Comptroller

32. Move licensing and enforcement to the Maryland State Police

- *Maryland State Police has a licensing division for registration and licensing of firearms and firearms dealers, licensing of certain law-related professionals, and registration of K-9 dogs, among other responsibilities*

Maryland Craft Manufacturers (33-39)

Preface:

We believe the Task Force recommendations should further the interests of public health and fair markets for manufacturers, wholesalers and retailers. To those ends, the following points, made by witnesses throughout the Task Force's deliberations, provide a solid foundation for all Task Force recommendations:

- i. The testimony largely supported the effectiveness of the three-tier system in supporting fair markets. (multiple witnesses)
- ii. Traffic accidents, social hosts, and binge drinking are dominant public health problems that should be addressed. (Jernigan, Eck)
- iii. While the Comptroller's office has effectively addressed counterfeit products, tax evasion, and direct to consumer sales by a growing manufacturing sector, there is a lack of coordination regarding public health issues. (Kelly)
- iv. There is a great deal of variation in funding, resources, and expertise among county liquor boards that limits their effectiveness. (Durbin, Garcia)
- v. Because customers support them, because they add to local quality of life and economic welfare, witnesses and members of the Commission supported the growth of small manufacturers (Milani, Eck, Best). These conclusions are supported by the experiences of manufacturers (Millikin).

With this as a back drop, we believe the staff of the Commission, and the Commission itself, should pursue more detail on the following recommendations:

33. Affirm that Maryland's licensing system, as opposed to a control state system, has functioned appropriately and this should not change. Because there was no testimony as to problems in the three counties where some aspects of a "control state" system are in place, the decision on changing those to a licensing system should be a local decision. This is a fairness in markets recommendation. (*This recommendation will lead to Maryland being necessarily lower in terms of "best practices" regulation as ranked by some who believe license states have inherently looser regulatory systems than control states.*)

34. Affirm that there are economic and community benefits to alcohol beverage manufacturing occurring in-state. More of the positive economic impact of the whole alcoholic beverage industry occurs in Maryland, the placement of manufacturing facilities in state present no inherent public health issues, the state itself has greater control over the entire scope of the alcoholic beverage industry and indirect positive impacts occur in other sectors, particularly agriculture. This is a fairness in markets and a public health recommendation.
35. Encourage and formalize cooperation between all the public agencies that deal with alcoholic beverages. This includes health departments, law enforcement agencies, local and state licensing entities and revenue collection functions. This recommendation should specifically require that formal ties be created between these in-state entities. The Comptroller should convene regular meetings of these entities, to share information about regulatory, commercial and public safety issues, new situations that arise and to develop policies or recommendations to improve market function and public safety. . For example, the Task Force heard testimony that “nuisance locations” are a national problem. The multi-agency gatherings could examine “best practices” that have been successful both in-state and in other jurisdictions in curbing the effects of these locations and ending nuisance operations. This is a public health recommendation.
36. The issue was repeatedly raised concerning campaign contributions to elected officials with authority over Maryland’s alcoholic beverage industry. In fact, Maryland has recently seen members of the General Assembly and local liquor board employees convicted of using the legislative process in a corrupt manner. We believe that the Task Force can follow the example provided by how Maryland has handled political contributions from the gaming industry and should consider recommending restricting licensees and entities where licensees have an ownership interest from contributing to any elected officials or candidates. This is a fairness in markets recommendation.
37. We recommend that the Task Force identify the specific public health risks in priority order, the policy and regulatory options to reduce those risks and then recommend policies that will effectively target the specific problem. For example, testimony provided to the Commission has suggested that a more effective enforcement mechanism for social hosts would reduce underage drinking and the Task Force should recommend that Maryland move to a civil citation for impermissible social hosting. We do not believe that broad brush regulatory changes are appropriate, efficient or will be acceptable the public. This is a public health recommendation.
38. We concur with a suggestion made early on by Senator Bates. An estimated fiscal impact of relocating any of the State regulatory functions of the alcoholic beverage industry needs to be completed BEFORE any such recommendations are adopted. We need those fiscal estimates for each and every option for re-location we discuss. This is a fairness in markets recommendation.
39. The Task Force should consider placing all alcohol enforcement functions within one state government agency with authority to supervise and manage all the licensing and enforcement functions authorized or required by the Annotated Code of Maryland. This would provide consistency, certainty and a level of oversight for all the functions of the State. Local land use should remain under local government authority. This is a fairness in markets and a public health recommendation.