What Works in Alcohol Policy: Lessons for Municipal Control

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Alcohol Policy in Wisconsin: Promoting Changes to Reduce High Risk Alcohol Use sponsored by University of Wisconsin Law School’s Wisconsin Alcohol Policy Project.
Alcohol Problems Prevention: Changing the Paradigm
The 4 Ps of Total Marketing

Product

Promotion

Place

Price
Supersized Alcopops: “Binge in a Can”
Key Dimensions of Local Alcohol Retail Availability
Number/Density of Alcohol Outlets

Outlet over-concentration:

A key public health and safety concern
Location of Alcohol Outlets

Sensitive Locations

• Schools
• Playgrounds
• Churches
• Hospitals
• Alcoholism treatment facilities
Types of Alcohol Outlets

Off-sale Outlets
- Liquor stores
- Convenience stores
- Supermarkets
- Gas stations
**Types of Alcohol Outlets**

**On-sale**
- Bars/lounges
- Restaurants
- Airplanes, trains, etc.
- Festivals
- Movie theaters
Selling and Serving Practices

Problem Practices

• Furnishing minors and intoxicated persons
• Engaging in public nuisance activities
• Promoting unsafe products
• Using aggressive marketing practices
What the Science Tells Us: Retail Availability

- Increased alcohol availability
- Increased alcohol consumption
- Increased public health/safety problems
On the basis of the reviewed evidence, the Task Force found sufficient evidence of a positive association between outlet density and excessive alcohol consumption and related harms to recommend limiting alcohol outlet density through the use of regulatory authority (e.g., licensing and zoning) as a means of reducing or controlling excessive alcohol consumption and related harms.

“The Task force on Community Preventive Services recommends increasing the unit price of alcohol by raising taxes based on strong evidence of effectiveness for reducing excessive alcohol consumption and related harms. Public health effects are expected to be proportional to the size of the tax increase.”

CDC Task Force on Community Preventive Services 2010
Mean Number of Alcohol Outlets Near Residences by Race/Ethnicity & Income
(California, 2003)

Mean # of Alcohol Outlets

Income Quartile

1st Quartile 2nd Quartile 3rd Quartile 4th Quartile

All racial groups
Non-Hispanic Whites
Blacks
Hispanics
Asian/Pacific

Truong & Sturm 2009
Key Dimensions of Local Alcohol Marketing
Retailer Advertising Practices
Outdoor Advertising
Alcohol industry SPONSORSHIP of community events

Concerts

Sporting Events

Community Fairs

College Events
What the Science Tells Us: Youth Exposure to Alcohol Marketing

Increased youth exposure → Increased intention to drink → Earlier initiation of drinking

Anderson, et al. 2009; Snyder et al. 2006; Pasch et al. 2007
The State Preemption Doctrine: A Potential Barrier to Local Action

- Some States “preempt” or limit the ability of local governments to regulate community alcohol availability through local licensing and land use planning/zoning.

- Local powers may vary both across and within States.
Levels of State Preemption

STATE AUTHORITY
- Exclusive or near exclusive State authority
- State licensing; local zoning & police powers
- Joint State and local licensing
- Local licensing, minimum State standards

LOCAL AUTHORITY
- High State Preemption
- Low State Preemption

WISCONSIN!
Wisconsin: Broad Local authority to Regulate alcohol retail availability

- Exclusive local licensing
- Local land use planning and zoning tools and police powers explicitly protected

This means:

Local governments play a major role in determining the number, density, location, and types of alcohol outlets and permissible alcohol service practices.
Village of Ellsworth ordinance:

- Limited number of off-sale beer licenses to 1 per 600 residents
- Required licensees to be primarily in the grocery store business.

Village denied market’s renewal because if violated the second requirement.
“Chapter 125 [state alcohol control laws] specifically authorizes municipalities to incorporate state law governing the sale of alcohol and to prescribe additional regulations not in conflict with chapter 125. ... Consequently, a municipality may enact additional regulations beyond those set forth in chapter 125, as long as they do not conflict with chapter 125.”

The city's power to act in matters of local concern is limited "only by express language" elsewhere in the statutes. Thus, unless there is express statutory language restricting that power, or unless existing state legislation is logically inconsistent with the city's exercise of those powers, the city has the authority to act for "its commercial benefit, and for the . . . welfare of the public." [In addition], ordinances may not "infringe the spirit of a state law or . . . general policy of the state."

389 N.W.2d 54, 60 (Wisc. Ct. of Appeals, 1986, quoting two Wisconsin Supreme Court cases)
State’s Recommended Role in Alcohol Retail Availability Regulation

• Set minimum standards that localities must follow, while permitting stricter regulation
• Monitor retailer practices and enforce state laws (e.g., sales to minors and intoxicated persons)
• Coordinate local licensing and enforcement activities
• Provide resources, technical assistance and training to local law enforcement agencies
So What’s Going on in Wisconsin?
A view from an outsider
Grocery Stores/Bars
Relative Concentration (2010)

## Alcohol Retail Outlets Population Ratios:
Selected States (outlets per person)

<table>
<thead>
<tr>
<th>STATE</th>
<th>On-Sale</th>
<th>Off-sale</th>
<th>All outlets</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>1,016</td>
<td>2,110</td>
<td>686</td>
</tr>
<tr>
<td>Iowa</td>
<td>547</td>
<td>869</td>
<td>334</td>
</tr>
<tr>
<td>Michigan</td>
<td>1,076</td>
<td>1,233</td>
<td>575</td>
</tr>
<tr>
<td>Minnesota</td>
<td>848</td>
<td>2.333</td>
<td>622</td>
</tr>
<tr>
<td>WISCONSIN</td>
<td>428</td>
<td>1,486</td>
<td>332</td>
</tr>
</tbody>
</table>

Source: U.S. Census; NABCA Survey Book (2010)
Bad Badger Sports Bar
215 W. College Ave
Downtown Appleton

Happy Hour - Wed.- Fri 3pm-7pm with 2-4-1 bottles, taps, mixers Brewer games $10 all u can drink domestic tap beer we do carry MLB package, watch almost any MLB game Free popcorn and peanuts at all times!

33 tap beers to choose from!
The most on tap Beer in the valley!

Upcoming Events:

Serving homemade pizzas with a kitchen coming soon

Ben Stack - live 2nd Friday of every month

See our great specials below
Wisconsin has significant state preemption issues

• Local alcohol taxes are not permitted.
• Local license fees are limited by the state.
• Local authority cannot require RBS training beyond what state requires.
• State mandates hours of sale for many retail establishments.
• Local governments cannot restrict beer tastings at licensed gas stations
The state appears to be failing to meet its regulatory roles

State practices include:
• Loosen minimum standards to accommodate commercial interests
• Restrict local ability to impose stricter regulations in many important circumstances
• Failure to monitor retail practices and enforce state laws
• Provide little or no assistance to local law enforcement agencies
Local Regulation of Alcohol Outlet Density, Types, and Location

Key components include:

- Distance requirements between outlets to limit density
- Distance requirements between outlets and sensitive land uses (e.g. schools)
- Limitations on high-risk types of establishments (e.g., bars, convenience stores)
Local Regulation of Serving/Selling Practices

Key components include:

• Alcohol/food ratio requirements
• Alcohol advertising and marketing practices
• Restrictions on price promotions
• Public nuisance and noise abatement requirements
• Require retailers to operate in a manner that is compatible with surrounding businesses and residences
• Require retail practices that do not jeopardize public health and safety of surrounding community
Local Regulation of Alcohol Advertising

Key components include:

• Limit amount of advertising both inside and outside of alcohol retail establishments

• Limit alcohol advertising on public property
  ➢ Community events
  ➢ Public transportation
  ➢ Public parks

• Restrict outdoor advertising in youth-sensitive areas
Restrict Sales of Supersized Alcopops

Policy options include:

- Restrict size of alcopop containers
- Restrict alcohol content of alcopops
- Restrict sales to limited types of retail alcohol outlets
- Prohibit sales within specified distances of youth-sensitive locations
- Require special health warning signs
Local Administration

Key components include:

• Procedures for obtaining public input as an integral part of decision-making process

• Dedicated law enforcement officer(s) to monitor retail outlet sales/serving practices and enforce local and state laws

• Procedures for imposing penalties, including fines, suspensions, and revocations

• Fees dedicated to covering costs of administration and enforcement
Policy Campaign: Major Counter-Arguments

• There is already too much government regulation. The marketplace will self-correct if problems arise.

• The issue is not problem alcohol outlets—it is irresponsible drinkers.

• Regulation of retail alcohol availability should be handled by the State, not local governments.

• The policy campaign is anti-alcohol, a new wave of Prohibition.

• The city lacks the resources to implement this proposal.
Implementation

- Organize
- Build Coalitions
- Advocate

Artwork courtesy of Jenny Anderson