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# 2012 ISSUE BRIEFS FOR STATES

## Brief Explanations of Common Alcohol Regulatory Issues Facing State and Local Communities

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January, 2012



## An Introduction to the 2012 Issue Briefs for State Policy Makers

This is a package of simple briefs that address common issues about alcohol regulation that arise during state legislative sessions and in local government deliberations. It is designed for legislators and other policy-makers who need a short, straightforward explanation of a given issue. For each brief, research citations are given where they exist.

Current issues revolve around budgets and the need to maximize revenue. Alcohol is often in the spotlight as a possible target for additional revenue through increased taxes or sales which, in turn, would bring increased revenue. Some have seen this as an opportunity to reduce regulations that are designed to inhibit high volume sales claiming that these regulations are antiquated, hurt consumers and aren't effective. These kinds of claims are disputed in these issue briefs. Alcohol regulatory systems have a series of checks and balanced and operate to "level the playing field" among businesses in local markets. Major changes to regulations will certainly upset this balance.

During the coming year, we will witness the substantial deregulation of alcohol in Washington State. In November, 2011, a 60-page rewrite of Washington's alcohol laws, sponsored and financed almost entirely by Costco Corporation, passed as a ballot initiative measure. It was sold to the public as privatizing the distilled spirits business and raising additional revenue for law enforcement. In fact, the measure changed the overall goals of the regulatory system and dramatically altered how alcohol is sold at the wholesale and retail level. Time will likely demonstrate that simplistic ideas about alcohol do not serve the public well.

Alcohol problems are very complex and result from many social factors, some of which we don't yet fully understand. For example, drinking tends to be more prevalent and to cause greater social problems in northern countries and in northern states within the US. Wisconsin is the state with the highest alcohol consumption. Northern European countries also have high drinking rates, but no one has yet adequately explained why people drink more in colder climates. On the other hand, some religions appear to play a role in lowering consumption. Utah has the lowest drinking rates in the US and Muslim countries typically have low drinking rates. Other socio-economic factors can also come into play-- young people, males and some ethnic groups drink at higher rates than other groups do.

A complex social problem generally requires a comprehensive system of regulation to address all its facets. Alcohol regulations form a comprehensive system, so changing a single regulation can change the workings of the entire system. For example, removing a ban on volume discount sales for alcohol may seem like a simple change and one that could lower prices for consumers, but it also makes alcohol more available to problem drinkers. In addition, this one change could allow large retailers to drive smaller stores out of business.

The primary purpose of the alcohol regulatory system and its individual regulations is to protect public health and safety. Whenever a change is proposed, the first question should be: How will this change affect public health and safety? Citizens usually want alcohol laws to protect them first. Convenience is a lower priority.

These briefs are produced by the Campaign for a Healthy Alcohol Marketplace and authored by Pamela S. Erickson who developed and manages the campaign. Further information can be found at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com). At this website, you can also sign up for a concise, informative monthly newsletter on alcohol regulation. Inquiries, suggestions and comments can be addressed to Pamela S. Erickson, at [pam@pamaction.com](mailto:pam@pamaction.com).



## Outline of 2012 Issue Briefs:

### 1. Aren't our alcohol regulations antiquated? Weren't they designed to prevent organized crime and other problems of Prohibition?

Resources: "The Origins of the Washington State Liquor Control Board, 1934", By Rorabaugh, W. J., Pacific Northwest Quarterly, Fall 2009.

"Public Opinion on Alcohol Policies in the United States: Results from a National Survey", Alexander C. Wagenaar, Eileen M. Harwood, Traci L. Toomey, Charles E. Denk and Kay M. Zander. Journal of Public Health Policy.

### 2. Why do we need regulations to balance our alcohol market systems?

Resource: "Why can't we sell alcohol like tires and mayonnaise?" a PowerPoint presentation by Pamela S. Erickson available at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com).

### 3. Since alcohol is a legal product, why can't it be sold like orange juice or any other legal product?

Resource: "Alcohol, No Ordinary Commodity," Second Edition, Thomas Babor, et al, Oxford University Press, 2010.

### 4. What are some real world examples of what happened when alcohol was deregulated?

Resources: "The Danger of Alcohol Deregulation: the United Kingdom Experience," by Pamela S. Erickson, a report available at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com).

"Health in alcohol policies: the European Union and its Nordic Member States," Christoffer Tigerstedt, et al.

### 5. Since the recession, all Americans expect good values, so what's the problem with lower prices for alcohol?

Resource: Bureau of Labor Statistics.

### 6. Why shouldn't alcohol be more convenient for customers to buy? Shouldn't those who drink exercise personal responsibility?

Resource: Health Behaviors of Adults: United States, 2005–2007, Centers for Disease Control and Prevention.

### 7. What is the problem with allowing more stores to sell alcohol?

Resource: Task Force on Community Preventive Services. "Recommendations for reducing excessive alcohol consumption and alcohol-related harms by limiting alcohol outlet density". Am J Prev Med 2009; 37(6):570–1. Available at [www.thecommunityguide.org](http://www.thecommunityguide.org).



## 8. Why shouldn't we be able to buy alcohol on Sundays, holidays, or any hour of the day or night?

Resource: Task Force on Community Preventive Services. "Recommendations on maintaining limits on days and hours of sale of alcoholic beverages to prevent excessive alcohol consumption and related harms." *Am J Prev Med* 2010; 39(6):605–6. Available at [www.thecommunityguide.org](http://www.thecommunityguide.org).

## 9. Why are beer, wine and spirits regulated differently?

Resource: "The High Cost of Cheap Alcohol," Pamela S. Erickson, a report available at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com)

## 10. What are the benefits of a three-tiered system of alcohol controls?

Resources: "The High Cost of Cheap Alcohol," Pamela S. Erickson, a report available at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com) and *Toward Liquor Control*, Fosdick, R.D. and Scott, A.L., 1933, London: Harper & Brothers.

## 11. Why don't we have problems with fake alcohol?

Resource: "Fake Alcohol is Rare in the US," Pamela S. Erickson, December 2011 Newsletter, available at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com).

## 12. Why are some states in the liquor business?

Resources: "The Effects of Privatization of Alcohol Control systems," The Alcohol Research Group, 2009, an update of a previous version by the Pacific Institute for Research and Evaluation. Available at [www.nabca.org](http://www.nabca.org).

Task Force on Community Prevention Services, "Recommendations on Preventing Excessive Alcohol Consumption: Privatization of Retail Alcohol Sales", available at [www.thecommunityguide.org](http://www.thecommunityguide.org).

## 13. In Summary, what does a good alcohol regulatory system look like?

Resource: "What are the most effective and cost-effective interventions in alcohol control?" World Health Organization, February 2004, [www.who.int](http://www.who.int).

## 14. Isn't alcohol regulation bad for business? Shouldn't we loosen alcohol regulations to help local business?

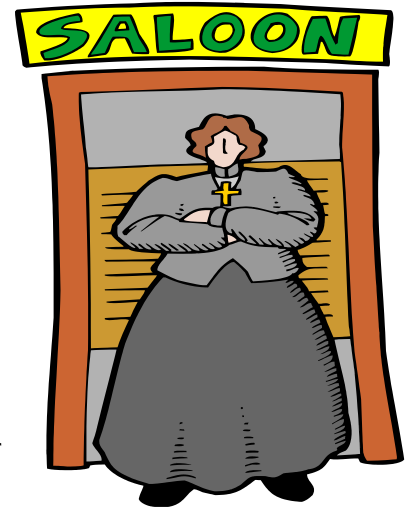
Resource: "The High Price of Cheap Alcohol," Pamela S. Erickson, a report available at [www.healthyalcoholmarket.com](http://www.healthyalcoholmarket.com)



## #1: Aren't our alcohol regulations antiquated? Weren't they designed to prevent organized crime and other problems of Prohibition?

Today's alcohol regulations were primarily designed to prevent problems which occurred **before Prohibition**. As Historian W.J. Rorabaugh reminds us, "For generations, Americans had been heavy drinkers, and by 1900 saloons were identified with political corruption, prostitution, gambling, crime, poverty and family destruction." (1) Prior to Prohibition alcohol was sold in a free-market scenario with little regulation. National manufacturers controlled the industry and owned retail saloons—called "tied houses"—where almost all alcohol was consumed. To compete, each national company saturated neighborhoods with multiple outlets which were often located near factories to attract workers. Aggressive promotions encouraged high volume consumption and money was used to dissuade politicians from crack-downs. Most of our alcohol regulations are designed to prevent companies from dominating local markets by heavily promoting large amounts of cheap alcohol. That is a very modern concern given the propensity of large corporations to do that with other commodities and to do that in countries where alcohol can be sold in virtual free market scenarios.

The lessons from Prohibition are different. A primary lesson is that extreme measures applicable to the entire country with very little flexibility do not work. Second, laws must have public support to be effective. As a result, our alcohol regulations are state-based allowing for differences and for experimentation. Currently, our regulations enjoy a high level of support as evidenced in numerous surveys. Based on a national survey, Alexander Wagenaar and his colleagues found that the "Results showed high levels of public support for most alcohol control policies. Over 80% support restrictions on alcohol use in public places, such as parks, beaches, concert venues, and on college campuses. Eighty-two percent supports increased alcohol taxes, provided the funds are used for treatment or prevention programs. Over 60% support alcohol advertising and promotion restrictions, such as banning billboard advertising, banning promotion at sporting events, or banning liquor and beer advertising on television."



***"Those who cannot remember the past are condemned to repeat it."***

***George Santayana, Reason in Common Sense, The Life of Reason, Vol.1.***



## #2: Why do we need regulations to balance our alcohol market systems?

The reason for regulations in the alcohol market is very simple: some common business practices can produce social harm. These practices often work well for other products, but not for alcohol. Consider this example of three typical business plan strategies:

1. Efforts to retain and increase purchases by customers who are **“frequent buyers.”**
2. Discounts and promotions to gain **new frequent buyer** customers.
3. Advertising to **young people** to build a future customer base.

When applied to alcohol sales, such business practices would:

1. Increase sales to frequent buyers, including **heavy drinkers and alcoholics**.
2. Use volume discounts and incentives to **encourage heavy use**.
3. Market alcohol to youth, thus encouraging **underage drinking**.

Alcohol regulatory systems seek to achieve a healthy balance of business practices which keep prices moderate (not too low to push consumption, not too high to push bootlegging), make products reasonably available for customers, prohibit promotions that foster heavy consumption and strictly control sales to minors. These things are designed to foster moderation because we know from research that moderation in consumption of alcohol avoids most problems. One should be skeptical of cries for a free market environment with no regulations. A truly free market, devoid of any rules at all, does not really exist for any commodity; and, for alcohol, it would result in serious unintended consequences.

**Estimates indicate the alcohol market includes:**

- **17.5% underage drinkers**
- **20.1% adult abusive/dependent drinkers**
- **10–20% of alcohol sold is consumed by underage drinkers**

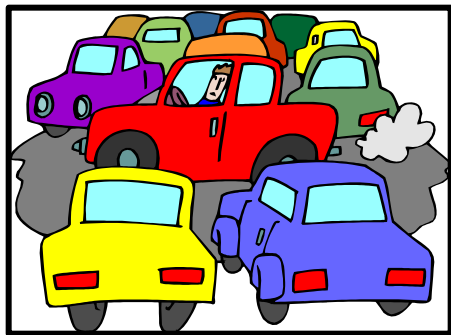
Archives of Pediatrics and Adolescent Medicine, 2006



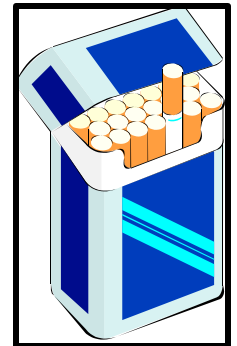
### **#3: Since alcohol is a legal product, why can't it be sold like orange juice or any other legal product?**

Most products that are “legal” are regulated to protect the public’s health and safety. In the US, food products are regulated by the Food and Drug Administration to ensure that products are safe, and that the contents match their labels. When regulation is weak or sloppy, we are at risk of food poisoning, food-borne illnesses, fraudulent packaging and other problems. For similar reasons, restaurants are regularly inspected locally to ensure that they serve only safe and healthy products. Fines and other penalties are issued to those in violation. No one would suggest that we should have no food regulations merely because the sale of food products is legal.

One highly regulated product in today’s market is the automobile. Regulations require that each car sold must contain a long list of equipment to ensure its safety, fuel economy, and to reduce air pollution. Once you buy a car, there are more regulations to follow, including those for proper use of children’s car seats, seat belts, safe driving speeds, and so on. Once again, no one would ever suggest that we should eliminate regulations just because the automobile is a legal product.



Cigarettes are highly regulated products that have some interesting parallels with alcohol. While cigarettes are legal to buy and smoke, there are many restrictions on their sale and use. You have to be 18 to purchase cigarettes. You may not smoke in most public places. And you may have to pay higher insurance fees if you are a smoker. We all know that the reason behind these regulations is the great harm cigarettes can



cause to the human body, including to those who inhale passive smoke from others. Research has shown a connection between cigarette smoke and cancer and many other health problems.

Alcohol is unique in that it is invariably harmful when used to excess. It is particularly dangerous because it can damage both the user and innocent bystanders. Alcohol addiction and alcohol-caused diseases harm users directly, while highway deaths, domestic violence, alcohol-fueled crimes and date rape can afflict non-drinking victims.

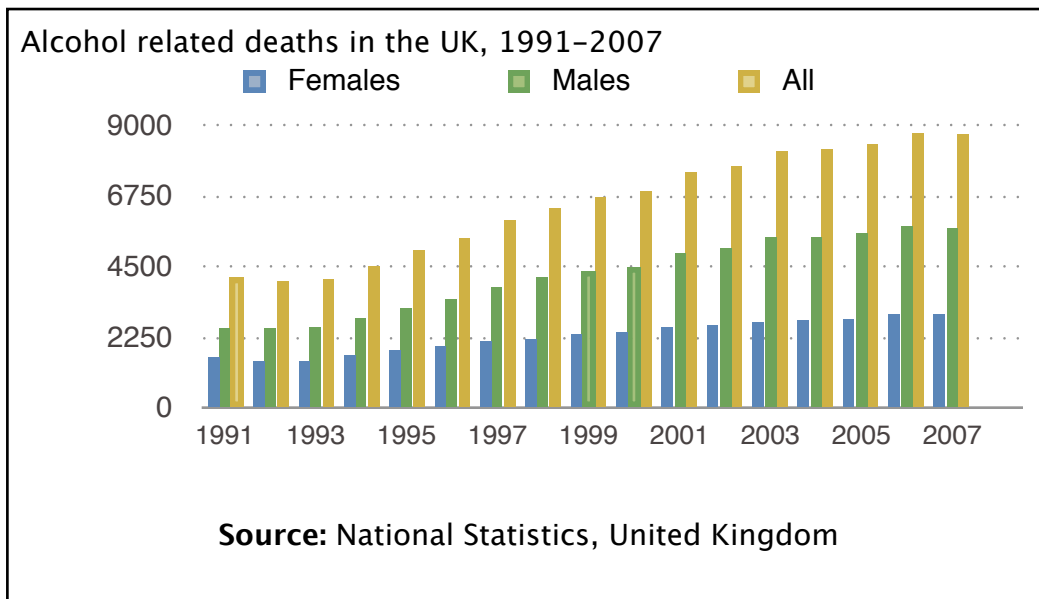
Although there are some situations where alcohol should not be used at all, alcohol can usually be enjoyed if used in moderation. Alcohol regulations both encourage moderation and restrict excessive use. This preserves individual choice while protecting public health and safety.



#### #4: What are some real world examples of what happened when alcohol was deregulated?

The United Kingdom is today's best example, although the State of Washington recently passed a ballot measure which will make it one of the least regulated states. Over time, we will be able to measure the impact on public health and safety.

The United Kingdom deregulated over a long period of time with an increase in problems following closely in the wake. It began in the 1960's with allowing all forms of alcohol in grocery stores. As competition heated up, alcohol became cheaper and even more available. Closing hours and other controls were abandoned. Today in the UK you can buy all forms of alcohol everywhere with few restrictions, 24 hours a day, 7 days a week; this "convenience" has caused a serious alcohol epidemic. For example, hospital admissions for liver disease and acute intoxication have more than doubled over 10 years. Underage drinking in the UK is almost twice the US rate.



Other countries have also suffered severe problems from alcohol deregulation:

- **Finland** followed a pattern similar to the UK, i.e. since the early 1960's alcohol regulations were gradually liberalized. Consumption increases followed. In 1969, the Finnish people averaged 3 liters per capita for those over 15. By 2004, that figure had reached 12 liters per capita. During that period, there were changes to regulations and tax cuts. Much of the change was due to pressure from the European Union which favored a free market for alcohol and lower taxes. In 1998, Finland decreased its excise duties for some alcohol products by 17%. Again in 2004, it was dropped another 33% in an effort to compete with other EU countries. In the case of each tax cut, consumption rose by 10%. Alcohol problems rose in tandem. In 1995, alcohol related mortality rose by 14% and in 2004 by 20%. Also in 2004, deaths from liver disease increased by 30%. (See "Health in alcohol policies: the European Union and its Nordic Member States, Christoffer Tigerstedt, et al.)
- In **Russia**, alcohol is a primary cause for drastically reduced life expectancy for men. In the Russian culture, men drink more than women; currently men die at an average age of just 60, versus 72 for Russian women. Per capita consumption of alcohol is enormous...about 5 gallons which is twice the level the world Health Organizations considers as the "danger level."

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According to Sergei Zakharov, Institute of Demography at Moscow's Higher School of Economics, "one in three Russian men die before retiring, most commonly from alcoholism, traffic accidents and poisoning caused by the consumption of illegal low-quality alcohol." The number of deaths is staggering: an estimated 500,000 annually. President Dimitry Medvedev has taken on the task of curbing this problem with a series of tax increases, penalties for sales to minors, restrictions on where liquor can be sold, health warnings and regulations for advertisers.

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- **New Zealand** loosened regulations in 1989 and problems increased. At this point in time, the Parliament is considering an alcohol Reform Bill which would make licenses harder to get, allow communities to regulate outlet density and hours/days of sale, increase the drinking age, ban dangerous products and products appealing to youth, limit the size and strength of alcohol and increase penalties and now is considering the reinstatement of stronger regulatory measures in the face of increasing public health and safety problems.

**"We have a problem in New Zealand with the sale of really cheap alcohol," he said. "Cheaper alcohol tends to be bought more by harmful drinkers than moderate drinkers and studies show that it is also attractive to young people."**

**"The use of price to reduce alcohol-related harm is one of the most evidence-based and internationally well-accepted strategies. Raising alcohol prices generally reduces consumption and consequently harm, especially in some 'at risk' population groups."**

Alcohol Advisory Council Chief Executive, Gerard Vaughan.



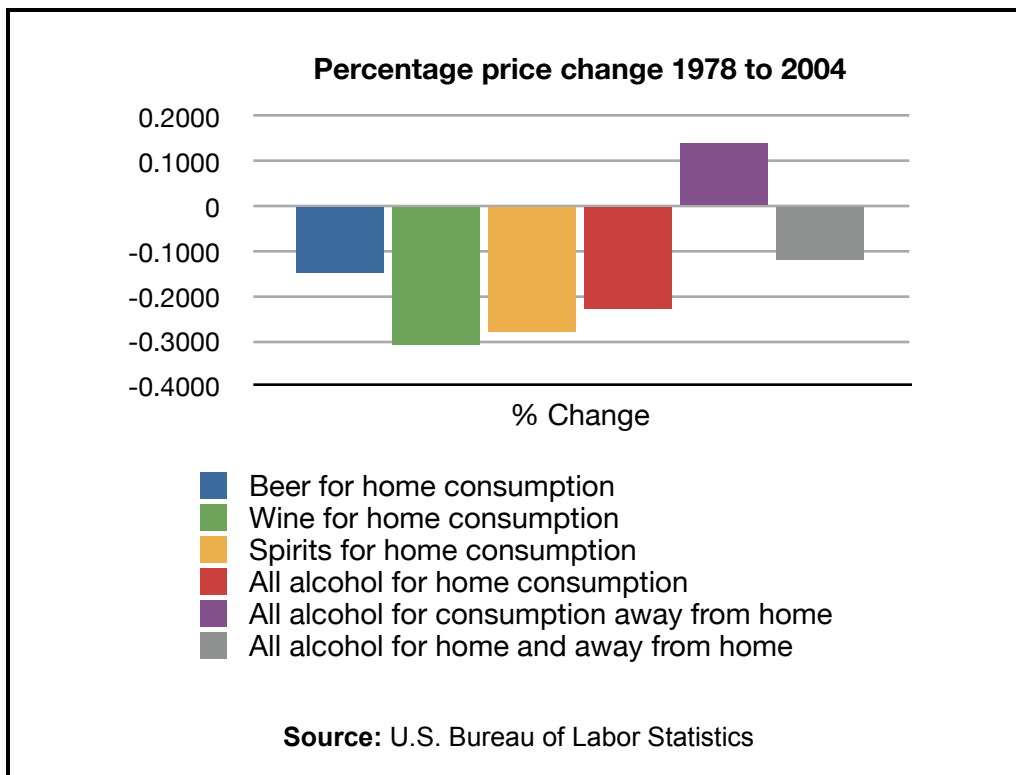
## #5: Since the recession, all Americans expect good values, so what's the problem with lower prices for alcohol?

The answer is simple: lower prices increase drinking and the problems that come along with drinking. It is one of the most powerful tools available to reduce social problems with alcohol. Consider this evidence: a team of researchers from the University of Florida reviewed over 100 separate studies that had over 1000 statistical estimates of price versus consumption. The showing was very consistent demonstrating that alcohol taxes and prices affect the level of drinking.

It is also true that Americans have enjoyed reduced prices for alcohol. According to data from the Bureau of Labor Statistics, the price of all forms of alcohol purchased for home use decreased 23% from 1978 to 2005. There was substantial variation in the type of product: beer decreased 15%, wine 31% and spirits 28%. However, alcohol purchased away from home actually increased 14%.

**“When prices go down, people drink more, and when prices go up, people drink less.”**

Alexander C. Wagenaar, Ph.D., a professor of epidemiology and health policy research at the University of Florida College of Medicine.





## # 6: Why shouldn't alcohol be more convenient for customers to buy? Shouldn't those who drink exercise personal responsibility?

Additional convenience for alcohol consumers would mean more stores, longer opening hours, and more forms of alcohol in more locations. A review of the research indicates that all of these things increase consumption which leads to more social problems. This, in turn, puts a large and costly burden on social services and law enforcement. When regulations are relaxed, most of the additional alcohol sold is purchased by heavy drinkers, a category which also includes youth.

A survey by the Centers for Disease Control reveals that most Americans do not consume alcohol regularly.

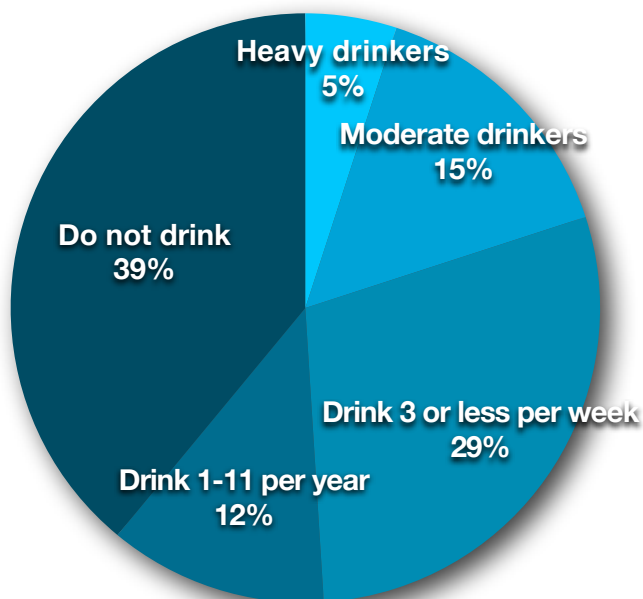
As one can see, 39% of Americans do not drink at all, and another 12% drink only a few times a year. In addition, 29% have three drinks or fewer per week which means they buy less than a six-pack of beer or one bottle of wine a week. This leaves moderate drinkers (1-2 drinks per day) and heavy drinkers (3 or more drinks per day) as regular alcohol customers. Thus the expanded availability of alcohol would benefit only 20% of the population at most, but the increased social and law enforcement costs would be borne by every taxpayer.

Another point of this survey is that the vast majority of Americans already exercise personal responsibility by limiting their consumption of alcohol. Only 5% are heavy drinkers, and only a portion of these drinkers cause serious public health and safety problems.

Given these statistics, the question becomes: "Is it sensible to inconvenience 20% of the population to protect the other 80% from the social ills and law enforcement costs that occur when problem drinkers have unlimited access to alcohol?"

As it is not illegal to be a heavy drinker, regulating the availability of alcohol remains the most effective way to control problem drinking. Such regulations have the added benefit of being minimally intrusive for the rest of society because they affect just a small percentage of the population.

### U.S. Alcohol Consumption



Source: CDC Health Behaviors of Adults: United States, 2005-2007



## #7: What is the problem with allowing more stores to sell alcohol?

It is important for state and local communities to retain control over the number and location of alcohol outlets within their borders. Every year more studies on this topic show that local control of alcohol outlets make communities safer. Recently, two Indiana University professors reported on their analysis of crime and outlet density in Cincinnati. They found that off-premise outlets were responsible for one in four simple assaults and one in three aggravated assaults. In another study of eight college communities, E. R. Weitzman and her team from the Harvard School of Public Health found that alcohol outlet density was correlated with heavy drinking, frequent drinking, and drink-related problems, particularly among women, underage students, and students who did not drink prior to coming to college.



Why should this be the case? Cheap alcohol may be partly to blame. Here is a theory posed by researcher Paul Gruenewald: "As alcohol markets mature, the number of outlets increases to meet demand and eventually the market becomes saturated. At this point new outlets can compete only if they replace old outlets or find a way to increase demand." ("Why do alcohol outlets matter? A look into the future," by Paul Gruenewald, Editorial, *Addiction*, 2008, *Society for the Study of Addiction*.)

Stores that sell alcohol can use varied ways to increase demand. Small wine shops draw in wealthy customers with an exclusive selection of fine wines. Grocery stores may use temporary price reductions to bring in customers. Bars may use drink promotions, or draw customers with live entertainment. Some convenience stores stock cheap, high alcohol-content products that attract street drinkers. Some of these sales strategies increase social problems more than others. This argues for a good balance of outlets in a neighborhood.



The difficulty is that no one has come up with a precise formula that says how many outlets are too many. We don't yet know enough about the alcohol market and social dynamics of individual neighborhoods. However, it is generally agreed that the best balance is struck by local decision-makers, not large corporate interests that seek a "free market" for alcohol distribution without local input.

Local groups have mapped crime incidents and locations of licenses to identify problem areas. These are the areas where caution is needed when considering applications for new licenses. This is particularly true for the types of licenses that generate the most police calls, i.e. places where alcohol constitutes the bulk of sales.

Those advocating balance and prevention also need to remember that alcohol policy must be comprehensive and not rely on a single measure. As the World Health Organization recommends, alcohol policies need to address a whole spectrum of related issues: availability, price, marketing practices, age restriction, impaired driving, alcohol education.



## #8: Why shouldn't we be able to buy alcohol on Sundays, holidays, or any hour of the day or night?

Research shows that when regulations change to allow more hours and days of sale, alcohol-based problems get worse. In fact, a national task force, The Task Force on Community Preventative Services, has generally recommended that these types of limits be retained. This evidence came from the Task Force's assessment of studies on the impact of repeal of these limits. The Task Force is an independent, nonfederal group that is developing a Guide to Community Prevention Services with the support of the US Department of Health and Human Services.

These limits are wrongly characterized as religious or old-fashioned because they prohibit sales on Sundays or on some religious or local holidays such as election days. However, their impact primarily comes from the fact that they reduce availability.

Generally, research has found that the more widely available alcohol is in a community, the more problems that community has with alcohol. The Task Force, which conducted a systematic review of research, noted that removal of days of sale for off-premise licensees (grocery and convenience stores) resulted in small increases in alcohol consumption and motor vehicle fatalities. Removal of such limits for on-premise licensees (bars, taverns, restaurants) was associated with substantial increases in motor-vehicle related harm and smaller increases in consumption.

The Task Force on Community Preventative Services "recommends maintaining existing limits of the days on which alcoholic beverages are sold as one strategy for the prevention of excessive alcohol consumption and related harms."

Regarding hours of sale, the Task Force states, "On the basis of sufficient evidence of effectiveness, the Task Force recommends maintaining existing limits on the hours during which alcoholic beverages are sold at on-premise outlets as another strategy for preventing alcohol-related harms." They found that increasing hours of sale by two or more hours for on-premise places resulted in significant increases in vehicle crash injuries, emergency room admissions, and alcohol-related assault and injury. Changes less than two hours showed inconsistent results, and there were no studies of off-premises hour changes to review.

The United Kingdom has generally abandoned limits on hours and days of sale, now allowing alcohol to be sold 24 hours a day. The theory was that bar violence would decrease when there was no "last call" for drinks, and patrons could exit any time of the day or night. This regulation is now widely recognized as a failure because patrons drink for more hours per bar visit, and stress and utilization has increased on police and emergency medical resources.

A final consideration is that of police resources. Laws cannot be effective with little or no enforcement. As more hours and days of sale are added, this puts a strain on enforcement agencies that work to prevent illegal sales to minors, sales to intoxicated patrons, disturbances at bars and drunk driving. All of these things increase with longer hours, creating more dangers for our communities.



## #9: Why are beer, wine and spirits regulated differently?

After Prohibition, both a new alcohol marketplace and a new regulatory system had to be created. Since state legislators knew little about alcohol markets, all states relied—more or less—on a study called *Toward Liquor Control* by R. B. Fosdick and A.L. Scott. This work was sponsored by John D. Rockefeller, a leading entrepreneur of the day. The two authors studied alcohol regulatory systems in other countries and developed a set of recommendations designed to foster public safety by eliminating violence in public drinking places and encouraging moderation among those who wanted to drink.

The first license type was for retailers who sold “lighter” beverages, which usually meant a weak 3.2% beer because Americans did not drink much wine. While quotas or local controls were common, the idea was to have widespread availability for the sale of these “light” products. The new approach meant that beer would no longer be sold primarily in kegs and buckets, as it was before Prohibition, but in single-serving size cans and bottles. The license for these stores usually allowed the sale of other products, so the grocery store became the most common type of licensee.

The second type of license (or state-operated store) was the liquor store—often referred to as a “package store.” There were fewer of these stores, their hours were curtailed, they did not permit entrance to those underage, and they were the only places where hard liquor and high-alcohol wine or beer could be sold. Generally, these licenses did not permit extensive sale of other products. The idea was that licensees would become specialists in the proper selling of alcohol. Moreover, they would not be able to sell alcohol very cheaply because they had no other products from which to make up profits that would be lost by deep discounting.

### Alcohol Retail System Design – Original Objective: Promote consumption of “light alcohol” beverages (beer and wine)



Grocery stores	Liquor stores
Sell beer of 3.2 % alcohol in single serving containers. (Many states have increased the percentage alcohol content for sale of beer in grocery stores.) Sell “light” wine (often 12-13% alcohol).	Sell spirits and other higher alcohol content products. (In some states this includes strong beer and fortified wine.)
Other products, such as groceries, available. Sales of alcohol not necessary to be a profitable store.	Primarily sell alcohol; loss leader is difficult without non-alcohol products to sell. Promotion/advertising practices sometimes controlled.
Outlets more widely available.	Outlets limited by state quotas, local ordinance or state ownership.
Greater days/hours of sale.	Limited hours and days of sale. Generally no Sunday or holiday sales. No late evening sales.
Customers of any age may be present.	Customers must be 21. Some states can cite a minor for entering a store.
Clerks may be under 21. Many states allow clerks under 21 to sell alcohol. High turnover in stores provides less expertise in regulatory requirements to avoid sales to minors and intoxicated persons.	Clerks must be at least 21. Mandatory training in alcohol regulation is common.



**While this system remains in place today, it has eroded in several ways:**

- The alcohol content of “lighter” products has increased. While 3.2% beer is still produced, the alcohol content of beer now averages around 4–5%, with some craft brews much higher. The percentage of alcohol in wine has increased from around 12% to 13–14%, with some varieties much higher.
- The place of wine in our markets has changed. For some time after Prohibition, few Americans drank wine. That has changed as about 1/3 of Americans now drink wine as their primary alcoholic beverage. And, the availability of wine has increased as more states have allowed it to be sold in grocery and convenience stores.
- New products, many of which appeal primarily to youth, are sold in grocery and convenience stores because they are “malt-based” and qualify as beer or they are “wine-based” and qualify as wine.
- Products which appeal to youth or problem drinkers are often sold in large containers-- over 20 ounces with 12% alcohol.
- Several states have allowed hard liquor and other high-alcohol content products to be sold in grocery and convenience stores without the additional controls that liquor stores have.
- Hours and days of sale have been extended; and many states are moving toward allowing the sale of all forms of alcohol for extended hours, seven days a week.



## **#10: What are the benefits of a three-tiered system of alcohol control? Why do states require retailers to pay wholesalers in cash?**

The United States has a unique system that requires alcohol to be sold through three separate market tiers: manufacturer/supplier, wholesaler, and retailer.

Generally, the tiers must be separately licensed and owned, independent of one another. This prevents marketplace domination by large companies that seek to greatly increase the sale of alcohol through aggressive sales practices, or by controlling the entire alcohol distribution chain, from manufacturer to consumer.

Before Prohibition, large manufacturers dominated the alcohol marketplace by owning chains of retail establishments. They pushed the retailers to sell very aggressively to make high profits. A modern version of marketplace domination can be found in the United Kingdom where four large grocery chains dominate the market and sell alcohol so cheaply that it has fueled an epidemic of alcohol-related illnesses. It is also believed that this domination has caused many traditional pubs to close since more people are drinking cheap alcohol at home.

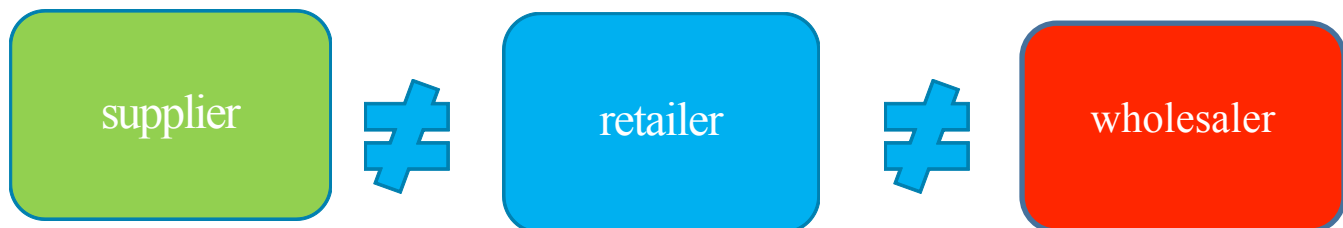
The tiered system in the US keeps prices balanced, prohibits or inhibits aggressive sales practices, and allows both small and large operators to be profitable. This system also uses checks and balances from one tier to another to enforce many provisions, and the middle tier is used to collect taxes and track products (a function the government would otherwise have to perform at extra cost to the taxpayers).

On the next page is an illustration of the three-tier regulatory system and how it works. While each state has a three-tiered system, there is a lot of variation. So this illustration is a general model designed to convey the basic concept. The actual regulations are very detailed in specific federal and state law. Many of these details, including federal, state and local licensing systems, have been omitted for the sake of simplicity. Some states have enacted laws and rules that block ways for one sector to dominate the other. One of those is the "cash law." It usually works by preventing the retailer from offering credit to the wholesaler as that can be a powerful inducement for favoritism. Such laws usually don't prevent the use of credit from a bank, an electronic funds transfer or payment within a few days.



## How the Three-Tier Alcohol Control System Supports a Healthy Alcohol Marketplace

- **Financial Independence** prevents business practices which promote increased and high volume consumption through price reductions. (Ownership prohibited between sectors)
- **Functional Independence** protects the integrity of the three-tiered system by prohibiting ways to circumvent it. (One sector can't perform function of another)
- **Price Regulations** prevent increased consumption that would occur by selling large quantities of very cheap product. (Uniform pricing, ban on volume discounts)
- **Promotion and Advertising Regulations** prevent business practices that target high drinking groups and promote volume consumption.
- **Tax Collection** provides for an efficient tax collection system.
- **Product Tracking** prevents sale of tainted and counterfeit product.
- **Age Restrictions** prevent sales to underage youth.
- **Availability Limits** reduce consumption, social problems and burden on law enforcement.





## #11: Why don't we have problems with fake alcohol?

Have you ever noticed that there are no stories about counterfeit alcohol in the United States? Yet, it seems to be a major problem elsewhere. In February 2011, the BBC was quoted as saying “Up to a quarter of licensed premises in some parts of the UK have been found to have counterfeit alcohol for sale.” It was also noted that alcohol fraud costs the UK about 1 billion pounds per year in lost revenue. (Feb. 15, 2011, “Fake alcohol on sale in many UK off-licenses”.) More recently five people died in an explosion at a suspected illegal distillery in the UK, four people died of counterfeit alcohol in Turkey and 21 were killed in Ecuador; and, 22,000 bottles of counterfeit product were confiscated by Chinese authorities.

The United States made policy decisions to put bootleggers and gangsters like Al Capone out of the alcohol business when Prohibition was repealed and those policies are still working today. I was director of a state alcohol regulatory agency in the US for seven years and I don't recall a single case of counterfeit alcohol. Even spoilage occurred rarely—and those products were quickly recalled and pulled from the shelves.

The reason for this situation is our “three-tiered regulatory system.” The United States has a closed distribution system which prevents adulterated and contaminated products from reaching the consumer. In the U.S. we require that alcohol go from a licensed manufacturer to a licensed distributor to a licensed retailer. The businesses in each tier are separately licensed and no manufacturer can own or have a financial interest in a retailer. Many states also prohibit ownership between all three tiers.

Distributors have major regulatory responsibilities. They collect the excise tax on alcohol and are responsible for tracking all products. Because of the tracking system, spoiled or recalled products can be quickly identified and pulled. An added benefit is the fact that these regulations were not expensive to enforce. Because distributors visit retailers regularly, they do notice a product that they did not supply. It is their obligation to immediately report such products to the regulatory agency. Under this system, it would be very difficult for a retailer to systematically sell counterfeit or untaxed products. And, a distributor is unlikely to jeopardize their license by offering a fake product to a retailer.

As the United Kingdom and other countries grapple with alcohol regulation, the lessons learned by the United States should be considered by policy-makers. While lost revenue is a problem, the consequences of consuming counterfeit alcohol can be quite serious. Illegal products often contain high levels of methanol. Methanol is not fit for human consumption and can cause blindness or death. Public safety needs to be the first consideration when considering changes to alcohol regulation.





## #12: Why are some states in the liquor business? Couldn't we just replace state stores with a license- and-tax system?

Eighteen of the states and a few individual local governments adopted the "Control System" (government owned liquor stores) in order **to remove the profit motive from selling alcohol**. Before Prohibition, large alcohol companies were strongly profit-driven and pushed retailers to sell alcohol aggressively to factory workers, heavy drinkers and even to children. They used credit, volume discounts, and other inducements to increase the sale and consumption of alcohol. This encouraged intoxication and created major social problems.

A Control System ensures that no one will have a profit incentive to sell alcohol to people who shouldn't drink, such as youth and intoxicated persons. Several states, most Canadian provinces and some Northern European countries have some version of a Control System. Since the state takes the profit from the sale of hard liquor, it can then use those funds to offset the costs to taxpayers of alcohol abuse. These costs are substantial. Using Washington State as an example, the cost for underage drinking alone was \$1.4 billion in 2007, according to the Pacific Institute for Research and Evaluation.

Converting from a control to a license system is a complicated matter because it is a major alternation that can have long-term consequences including increases in problems with alcohol, winners and losers in the business community, and loss of revenue. Theoretically, it is possible to develop a stricter set of alcohol controls by converting to a license system. Some "license" states, such as Kansas, do have stricter alcohol regulations than many "Control States." However, there has never been an instance where conversion to a private system has led to stricter control. Invariably, it has resulted in more alcohol outlets with looser sales regulations. Therefore, any state that is considering such a conversion should carefully review all of the following issues:

**Goals of the System:** Most state systems, whether license or control, attempt to encourage moderate consumption and prevent underage and abusive drinking. Most systems also seek to promote an orderly market where local and national companies—large and small—can operate profitably. Credible public health authorities can provide guidance as to what types of regulations are most effective in achieving these goals. Generally, they are ones that use multiple methods to moderate price, limit locations, control dangerous products and prohibit sales tactics that foster underage and/or heavy consumption.

**Revenue:** It is often assumed that the private sector can operate liquor stores at a lower cost. The assumption is that private labor costs are lower, private systems are most efficient, and that large private corporations can use their purchasing power to negotiate lower wholesale prices. But, the private sector also has more costs. A major one is local, state and federal taxes which a state owned enterprise does not pay. In addition, most control systems have very little advertising costs and can operate with a leaner labor force due to fewer hours and days of sale.

The sale of state land, buildings and equipment will generate some one-time revenue. However, gaining maximum value may be difficult in the current economy and the sale of used equipment rarely generates much.

Taxes and license fees will need to be established to replace revenue lost from the state's business profits. Because there are no competitors, control state operations are highly profitable. Therefore, in order to generate the same amount of revenue, the tax will need to be fairly high. This could negate an expectation that a private sector operation will mean lower prices. It may be possible to generate the same amount of revenue with lower taxes if you can dramatically increase sales and consumption through significantly increased outlets, hours/days of sale, and liberalized regulations. Unfortunately, increased alcohol consumption invariably leads to increased problems and costs associated with alcohol.

If revenue generation is important, policy makers should understand the risks and be skeptical of overly optimistic and simplistic revenue projections. Giving up a valuable asset and not realizing the expected revenue would be a very big mistake.



**License Issues:** There are many issues to consider in establishing a system of private licenses:

**Control:** Most states have adopted the concept that hard liquor, being a more potent product, should be more strictly controlled. Therefore, they limit the number of liquor stores and impose tighter controls regarding age restrictions for customers and sales people, training requirements, limited hours/days of sale and often prohibit a substantial inventory of other products. The latter requirement is designed to ensure that the liquor store specializes in the product and its regulations. It also is designed to inhibit promotional practices such as loss leaders. Large stores use “loss leaders” to lure people to their store with the knowledge that they will likely make up the loss through the purchase of other products.

**Density:** Recent credible research confirms the importance of limiting outlets in terms of reducing problems. It is also important to consider new research that shows the underage drinker has switched preference from beer to hard liquor. Much greater availability of spirits will likely increase problems with underage drinking.

**Wholesale/Three-tiered system issues:** Most states have some form of the three-tiered system that requires licensees in each tier to be independent. This system maintains an orderly balanced marketplace and “evens the playing field.” This is accomplished by not allowing ownership or favorable business arrangements between the tiers. For example, the wholesaler must offer products to all customers at the same price. In this way, large and small, local and national businesses can operate profitably in the same market. In other markets, such as the United Kingdom, wholesalers and many small independent stores have been eliminated. The four large UK grocery chains have 75% of the market and buy products directly from the alcohol producers. Before Prohibition, large suppliers owned retail saloons. In both cases, the markets used aggressive and predatory sales practices. Increased problems with alcohol were the result. This can be a big issue for a state that has a lot of small wineries, brewers, distillers and many independent retailers.

**Product Safety:** There are two safety issues: tracking in order to quickly locate a tainted or spoiled product and dangerous products such as 190 proof alcohol. The three-tiered system for beer and wine includes a system to track products. As a result, we almost never have problems with tainted or counterfeit alcohol. It is a big problem in other countries where people die from tainted product and revenue loss is enormous. Both China and the United Kingdom have very large tax losses from counterfeit product. The second problem is one of dangerous products. Certainly you wouldn’t want a 190 proof product on every grocery shelf. Some states are able to restrict dangerous products or require special permits for purchase.

**Advertising and Promotion:** Once there has been a conversion to private liquor licenses, the state has a limited ability to control advertising. Consideration should be given to restricting promotional and sales practices which induce high volume purchase and consumption or foster underage drinking. In a private sector environment there is always a push to increase sales. Supermarkets are set up to operate on small profit margins (less than 2%), but in order to make money, they have to sell in high volume. Therefore, they have the incentive to do exactly what an alcohol Control System tries to avoid: promote loss leaders (cheap alcohol products) to sell at high volume, and to offer quantity discounts and other enticements that result in over-consumption. This is why many license states prohibit prices that are below cost and volume discounts.

In summary, the state is in the liquor business to remove the profit motive that can promote high volume sales, especially to those who are already heavy drinkers. It is difficult for a privatized system to raise as much revenue as a control system because taxes and fees must be set at very high levels to capture the revenues lost from state store taxes, fees and mark-ups. This leaves such a small margin for profit that private operators will be induced to greatly increase the volume of alcohol sold through bargain offerings and quantity discounts. This has been shown to greatly increase threats to public health and safety. The resulting increase in social service and law enforcement costs are borne by all taxpayers, not just the problem drinkers who incur them.



## #13: In Summary, what does a good alcohol regulatory system look like?

Today we know a great deal about what works in alcohol regulation thanks to a large body of high-quality research. The World Health Organization has done extensive review of this research and developed recommendations on how best to regulate alcohol. The following chart presents many of those recommendations in an easy-to-understand “alphabet” format:

Our greatest protection is an effective alcohol control system which addresses the ABC’s of regulation:

- **Availability.** Allows alcohol to be sold by the bottle and the drink, but limits the number, location, types of alcohol products, and hours of outlets.
- **No “Bargain Booze”.** Regulations balance prices, control price competition, and restrict dangerous marketing and promotional practices.
- **Children and Teens.** Age restrictions protect young people from the serious problems of underage drinking.
- **Drunk Driving.** Creates and enforces strict measures against drinking and driving-- sobriety checks, blood alcohol limits, driver’s license suspension.
- **Education and Enforcement.** Uses the carrot of education (alcohol awareness programs, “schools” for offenders) and the stick of enforcement (fines, community service and jail) when education fails.

**Source: Adapted from World Health Organization recommendations.**



## **#14: Isn't alcohol regulation bad for business? Shouldn't we loosen alcohol regulations to help local business?**

The answer is generally no to both questions. In fact, for most businesses alcohol regulation offers some real benefits. While the system sometimes seems cumbersome and a business owner may wish for a free market system, most free markets end up benefiting only a few large companies. The states' alcohol regulatory systems are designed to foster alcohol moderation, prevent underage drinking and other problems **AND to allow the owners of all sizes and types of businesses to make a reasonable profit.** Much has been said about the public safety issues, but policy makers should also consider the following benefits to business:

**The Three-Tiered System prevents market domination:** Look at the soda pop shelf in your grocery store and you have an idea of what alcohol might look like in a deregulated environment. The soda space is occupied by two major companies. The alcohol regulatory system requires that alcohol be sold through three separate, independent tiers: manufacturer, wholesaler and retailer. In addition, most states require price policies that level the playing field. For example, uniform price laws require the wholesaler to sell their products at the same price to all retailers. This means the large corporation can't get a better deal than the local mom-and-pop store. It also keeps prices from going so low that "bargains" encourage people to drink more.

**Regulations reduce some costs of doing business:** For most commodities, large grocery stores require slotting fees; that is, payments made to the grocer to assure products a place on their shelves. Manufacturers and wholesalers may also have to stock shelves, pay for advertising, provide promotional point-of-sale items, and buy refrigerated units. These are generally illegal for alcohol products. If controls are removed, small players would not be able to get their product to market without paying for these "extras."

**Freedom from price wars and other forms of market volatility:** Most states have several ways of keeping the price of alcohol balanced, i.e. not low enough to encourage volume consumption, nor so high as to encourage bootlegging and illegal importation. Laws such as bans on volume discounts and selling below cost keep prices reasonably stable. Without these laws, large corporations with huge economic buying power would undercut small—usually local—businesses, and possibly put them out of operation.

**Product tracking protects against unwarranted business ruination:** Even the best manufacturing companies can make a mistake that creates a tainted batch or product. In today's market, even minor problems with product quality can ruin a company or disrupt a commodity market. This is much less likely to happen in the alcohol marketplace because wholesalers are required to track every bottle and can. With this system, a problem batch or product can be quickly identified and removed from the retail shelf. This minimizes harm and can save a business.

**Predictability:** Because the regulations keep the alcohol marketplace balanced and free from extreme volatility, business owners can have confidence in their investments. Predictability reduces risks and makes business planning easier.

**Compliance with regulations helps prevent neighborhood and community problems:** Most businesspeople find that a clean and safe neighborhood is good for business. Alcohol regulations help. By preventing sales to underage youth and intoxicated people, fewer neighborhood problems are likely.

Policy makers should consider these points very carefully when alcohol deregulation measures are under review. While being free of regulations may sound good, the reality is often very different. Remember that the change in rules must apply to all licensees. For example, if the law requiring uniform prices is abandoned, wholesalers would then be allowed to give some retailers special prices. Who would get that special price and how would that impact local businesses? Chances are that large, global corporations would be the only ones getting the best deals because they alone can buy a very large volume of product. Thus, a so-called "free market" would only benefit a few companies.

