



APRIL 2014 NEWSLETTER

All alcohol products are not equal. Some require greater care.

By Pamela S. Erickson

Have you heard the phrase “alcohol is alcohol is alcohol”? It refers to the standard drink equivalents for beer, wine and spirits: 12 oz. of 5% beer = 5 oz. of 12% wine = 1.5 oz. of 40% spirits.

The “drink equivalent” is sometimes used as a rationale for selling all forms of alcohol wherever low alcohol content products are sold. Proponents argue that treating alcohol products differently amounts to discrimination and that the source of alcohol should not make a difference. But common sense and science suggests otherwise. If a product has a higher concentration of alcohol, it is easier to abuse. If the objective is to “get drunk”, it’s quicker with a potent product. Unfortunately, surveys show that underage drinking is mostly binge drinking and that kids are primarily interested in intoxication. Surveys also indicate that many kids—particularly girls—are favoring spirits over beer.

The container size typical for wine and spirits presents problems for potential over-consumption. The typical 12 oz. beer you buy in a store is usually close to the standard drink size. Wine and spirits are more often sold in larger 750 ml bottles. For spirits, a typical 750 ml bottle contains about 17 standard drinks. For wine, it is 5 standard drinks. And, now craft beer is sold in large containers called “growlers.” Thus, how much alcohol is drunk depends on who is pouring. It is hard to imagine that youth are careful about pouring or even know about standard sizes. Even adults don’t always possess that knowledge.

Also what is “typical” for beer, wine and spirits is changing. A typical bottled beer used to be 3.2% alcohol, but now stronger beer is increasingly popular with alcohol content of 6-12%. And then, you have malt-based products that come under the definition of “beer”, but are 12% alcohol in a 24 oz. can. These are often sold cheaply and equate to 4.8 standard drinks. They are aptly called “Black-out in a can!” Sweet, fruity ready-to-drink products are made with malt, wine and spirits and sometimes are favored by underage female drinkers. In a recent study of brand preference for youth by the Center on Alcohol Marketing and Youth, spirit/malt based “alcopops” were two of the top ten brands. Also in the top ten were 4 beer and 4 spirit brands. So there is good reason to consider greater control over products that are more potent and that are highly favored by teens.

Historically, we have recognized that high alcohol

products have more potential for harm and warrant tighter regulation. A recent court ruling affirmed that idea. In the case of *Maxwell’s Pic-Pac v. Dehner*, the US Circuit Court, Sixth Circuit, ruled that “The state indisputably maintains a legitimate interest in reducing access to products with high alcohol content.” [Click here to read judges decision.](#)



That case involved a Kentucky law which prohibited grocery and convenience stores from having a license to sell wine and liquor unless the products were located in a separate area with an outside entrance. The plaintiff claimed that prohibiting grocery stores from selling alcohol on their shelves like beer amounted to a violation of their constitutional right to equal protection of the law. In serving as a legal expert in that case, I wrote extensively about the history and rationale for having greater control over products of high alcohol content. I described how most states used the research work of Raymond Fosdick and Albert Scott in their book, *Toward Liquor Control* to design their regulatory systems. The judges used these resources in their order and quoted Fosdick and Scott when they said, “states must use their control systems to steer society to lower alcohol forms of products.”

Based on the work of Fosdick and Scott, most states originally created a system of liquor or package stores to specialize in alcohol sales. In the case of 18 states, alcohol was originally sold primarily in state stores. Other states, licensed private individuals to sell products in a “package liquor store. These specialty store systems allow a more careful sale for more potent products. They usually don’t

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allow those under 21 to enter. Clerks are often older and trained in regulatory compliance. Promotion and advertising of alcohol products takes place inside the store where minors are not permitted, so they are not exposed to advertising. Aggressive product promotion—such as using loss leaders-- is less likely because the store sells only a few other products where they could make up the profit loss. Contrast this to states which have deregulated their markets so all forms of alcohol are sold in grocery, convenience, and other types of stores. Youth are frequently in these stores. Clerks are sometimes underage. Alcohol is promoted and marketed aggressively throughout the store with sales, coupons and suggestions for drinking at every holiday. Products are vulnerable to theft and self-service doesn't always prevent sales to underage and intoxicated persons.

Given that April is Alcohol Awareness Month, it is a good time to reaffirm our sensible alcohol regulations which require greater care in selling more potent products. It may be time to reevaluate our regulations that govern marketing, distribution and retail sales of alcohol products given the new package sizes, ingredients, and alcohol content. We must also acknowledge that any form of alcohol can be abused which means we need to consider each type of alcohol and its impact on public health and safety.

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