Campaign for a Healthy Alcohol Marketplace

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The Problem of the Absentee Owner

By Pamela S. Erickson

"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*

When Prohibition ended, many states took steps to ensure that those who sold alcohol in their community were part of the community. Some states had residency requirements for retailers and wholesalers. Others restricted the number of licenses that could be held by a single owner, corporation or chain operation, since these were often absentee owned. Other states took the approach of requiring an out-of-state entity to designate a local manager as an additional licensee.

And, today's three-tiered regulatory system is designed to prevent or curtail local market domination of alcohol sales by a few large companies. Some of these state regulations have been challenged in the courts without an understanding of why they were instituted in the first place. Or, it is assumed that these regulations are merely there to favor local businesses. However, in most cases these provisions predate the local industry.

The concern over absentee owners or oversight far removed from the local market has had a long history in land reform debates. Even the federal code requires federal judges to live within their districts. (See 28 U.S.Code Section 44 (c).)

To understand these regulations as well as the three-tier structure, one needs an explanation of how local markets became dominated by large, out of state businesses; and, how these companies created major social problems via their business practices. Most states— to one degree or another— relied on recommendations from a study conducted as the nation was moving towards repeal of the 18th Amendment called ***Toward Liquor Control***. As noted in the first paragraph of this article, the issue of the absentee owner was uppermost in the minds of those who drafted recommendations for the design of our system.

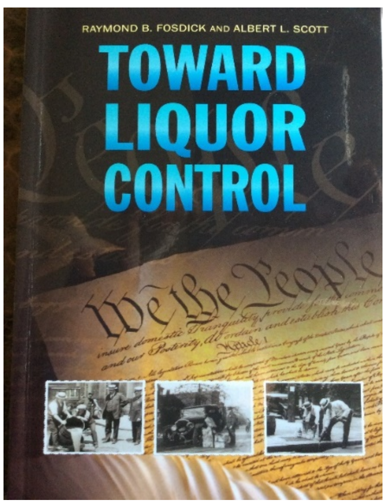
In the days before Prohibition, large alcohol companies became "vertically integrated" which meant they not only manufactured alcohol but distributed the product to a series of retail "saloons" that they owned. Each manufacturer owned saloons in most of our local markets across the country. The saloons became hyper-competitive and were involved with gambling, prostitution and sales to children. Saloons were often located near factories so that workers could be enticed to spend their wages on alcohol. The national companies became very wealthy and used part of that wealth to buy political influence to prevent any crack-downs on their practices. Problems were so severe that they fostered the extreme solution of absolute Prohibition.

Source: Library of Congress, "Wicked Portland"

The national consensus was to prevent a repeat of this remote saloon industry when Repeal was imminent. President Roosevelt noted as the 21st

Amendment was coming to his desk, “I ask especially that no State shall by law or otherwise authorize the return of the saloon in its old form or in some modern guise.” Residency and corporate ownership restrictions were some of the tools state chose to employ.

After Prohibition, states were given the primary responsibility to regulate alcohol. This alone recognizes the importance of greater community involvement. Today, most states have developed methods designed to give local communities input or control over the business of alcohol sales and service. There are dual license states whereby a business must get a state and a local license; and, the local jurisdiction may enact different regulations. For example, closing hours might be different for a “bedroom community” versus a large city. Several states have local committees that weigh in on the granting of alcohol licenses.



Despite these regulations, we continue to have problems with absentee owners. Today, many of the places where alcohol is sold-- stores, bars and restaurants-- are part of large, national chains. Most of those could be considered absentee owners since they are managed by a corporate headquarters out of state. Corporations are owned by shareholders who expect their corporate officers to manage in a way that maximizes profits. While many companies are charity-minded and invest in communities, profits are primary.

Below are some of the issues that exist today with an “absentee owner”.

1. Large corporations can be slow to respond when quick action is needed to stop serious problems such as “over service” or repeated sales to minors. Because large corporations are complex, it may take time to find someone with the authority to effectively deal with an issue. With a local owner, you can call or visit them at their business to immediately discuss the problem and the solution needed to stop the problem. When granting or renewing a license, regulators may want to insist on having a local manager or contact who can respond quickly and facilitate a solution to problems that may arise.

2. When an owner is not around and involved in the day to day business, it can lead to a “who cares” attitude, according to Susan Baroncini-Moe, CEO of Business in Blue Jeans. And, she claims that there is a greater tendency for “stealing, bad business practices and other unsavory results simply because nobody is minding the henhouse.” Some convenience stores are thinly staffed late at night which may encourage theft and other criminal activities. Some local governments have adopted an ordinance with requirements for convenience stores based on public safety concerns. Greater staffing, better lighting and other measures could be considered.

3. Companies excessively focused on profits are tempted to ignore regulations and consider fines as just a cost of doing business. This represents an unfair competition situation for other licensees that dutifully abide by the law. It may be necessary to seek different penalties that are more likely to induce compliance.

4. Large companies have vast resources that can be used to hire legal teams that will threaten lawsuits and seek delays which means the problems just fester. While this can be challenging, it may be necessary to use your resources to meet the legal challenge which would include a thorough explanation of the rationale and importance of the regulations which deal with this issue.

Sources:

http://businessinbluejeans.com/2014/09/curse-absentee-business-owner/

Toward Liquor Control, Raymond B. Fosdick and Albert L. Scott, The Center for Alcohol Policy.