



February 2019 Newsletter

How can we prevent alcohol-related harm in problem bars? By Pamela S. Erickson

It seems like every town has at least one problem bar. Regulators are quite familiar with this type of place. They are usually large venues offering live or recorded dance music and close late at night. They serve minimal food and promote drinks that contain a substantial portion of alcohol. Some patrons get drunk to the point of blacking out despite laws against over-service. These types of places use an inordinate amount of enforcement resources every weekend.

In 2006, the federal government issued the 2nd Edition of a Problem-Oriented Guide for Police called, "Assaults in and Around Bars." Some of the factors the authors identified as contributing to violence and aggression are:

- Alcohol
- Culture of Drinking
- Type of Establishment
- Concentration of Bars
- Bar Closing Time
- Aggressive Bouncers
- Price Discounting of Drinks
- Continued Service to Drunken Patrons
- Low Ratio of Staff to Patrons
- Tolerance for Disorderly Conduct
- Availability of Weapons
- Low Level of Police Enforcement and Regulation

We have known about these factors for some time, so why is it hard to use this knowledge to make change?

The problem is that problem bars often make a lot of money and employ a lot of people. Changing the formula could bring less profit. Fines may not be a deterrent, but just a cost of doing business. Serious consequences, such as long suspensions or revocations require a great deal of investigative work and a long process that can go on for years. Local officials may be reluctant to put someone out of business because it punishes employees, contractors, and suppliers who may not have caused the problems.

So, how can we do things differently and curb alcohol-related problems?

For new licensees, a prevention approach

Since the factors which contribute to violence are well-known, could we use that knowledge to work more intensively with new licensees to ensure they are going down the right path? Could we make sure they have enough staff, use professional security, and engage in responsible serving practices? Could we develop a "risk-based licensing system" that assesses greater license fees for high risk situations like they do in some Australian provinces?

Risk Based Licensing: "It's an economic tool that's already used to moderate the behaviour of licensees and mitigate the risks associated with the sale of liquor in the ACT, Queensland, Victoria and New South Wales."
Vicki Gillick, Drink Tank, Australia.

For current licensees that are problems, they need to modify some of their current practices. Likely that will require some fairly strong action. Here are some ideas:

Brief Suspensions

In my experience, suspensions are highly effective in changing business practices that create problems. But, to minimize the impact on employees and providers, the suspension should be brief unless the licensee is uncooperative. In Oregon, an emergency suspension is allowed if there is "an immediate threat to public health and safety." That is a high bar and must be well documented. But, upon suspension, it was our practice to immediately meet with the licensee to discuss how to get back in business. Usually, the licensee was willing to make any kind of change given the prospect of reopening quickly.

In 2016, an emergency suspension provision went into effect in Virginia. It permitted the ABC to "summarily suspend any license or permit if it has reasonable cause to believe that an act of violence resulting in death or serious bodily injury" has occurred on the licensed

premises. The process requires an initial investigation within 48 hours of the violence. And, after 48 hours of suspension, the licensee may petition for a restricted license pending results of a more formal investigation. According to Chris Curtis of the Virginia ABC, they have used this provision 16 times in the past 2½ years. Often the licenses are simply surrendered. If allowed to operate, restrictions typically require more staff and curtailed hours. The extra work is worth the effort, if it results in no more violence!

Early Closure

In Oregon, we found that most complaints happened after midnight. Given that, we sometimes constructed a compliance plan that required closure at 11 pm. After a month without problems, they could close at 12 am. After more problem-free months, they could stay open until the required closing time. New Jersey recently required early closure when an underage youth died in a crash after drinking at a licensed bar. In a California case, a premise was issued a 45-day suspension and then three years of probation whereby they had to stop selling alcohol at 12:30 am.



Drink Practices

Problem bars often have serving practices designed to get people very drunk. Many patrons don't realize that multi-shot drinks can get you past the legal limit to drive after just one drink. Several jurisdictions prohibit multi-shot drinks when a bar gets into trouble. In Oregon, we adopted a rule that prohibited drink specials after midnight.

Security

Sweden requires additional security if a premise wants to stay open late at night-- and if they want to stay open later than 3 am-- a lot of extra security. This is a recognition that the longer a bar is open, the more some people will get intoxicated. And, there is increased recognition that security should be professionally trained and certified. Aggressive bouncers can actually create problems by being overly forceful.

Training

In some states all servers must be trained and certified so they can judge age, accurately check ID, understand the

signs of intoxication and know the science of alcohol impairment (BAC levels, etc.). If training isn't mandatory, it is often used when bars get into trouble to help them bring their serving practices back on track. In Sweden, training is required for late night operation. Training should also include information on trade practice violations. Violating these regulations can allow the licensee to reduce prices to undercut competitors and can lead to greater intoxication.

But wouldn't it be great to prevent the deaths, serious injuries and other problems before they happened?

Usually bad things must happen before corrective action can take place. What could we do to keep licensees in business, but insist on compliance? A "risk-based system" is one idea. Another is a regulation prohibiting certain "high volume drink practices" such as drinking games, "all you can drink" for a set price, and "drink specials" after midnight. Some preventive measures can be adopted by statute or rule. In that case, it is usually worth the effort to get licensees and trade associations on board. Regulations prohibiting dangerous practices can level the playing field for all licensees. This means that "problem bars" can't undercut the good licensee by engaging in dangerous practices.

Last, but not least, is fair, firm and well-funded enforcement. Most regulations won't work without enforcement. And, remember good enforcement benefits the good licensee who dutifully follows all the rules and doesn't get undercut by those that engage in dangerous practices.

Sources:

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