



May 2017 Newsletter

By Pamela Frickson

When Suppliers Morph into Retailers

By Pamela S. Erickson

When I started as an alcohol regulator, Oregon had many small wineries producing good wine---some of which was world class. But most wineries were very small and sometimes had difficulty “getting their product to market.” These wineries felt they needed to develop a market before a distributor would be interested in partnering, and/or they feared getting lost in the portfolio of larger wine and spirit distributors. One method they pursued was selling their products at local festivals.

Some of these festivals got out of control. It turned out that wineries were inexperienced and unskilled in responsible serving practices. Attendees got intoxicated after having too many “tastes” and minors were served.

Eventually, we developed rules for festivals that included limits on servings and the size of a “taste”, requirements for server training and other responsibility measures. As a result, these events became less of a problem.

Responsible retailing of alcohol is exceptionally important. We rely on our retail licensees to prevent sales to minors and intoxicated persons. This takes skill in observation, judging age, checking ID, knowing the signs of intoxication, and handling very delicate situations.

But now we face another situation where suppliers are entering the retail business, sometimes without the training or skills needed for good retailing. Today, we have over 6,000 breweries, the majority of which are

small microbreweries or brew pubs. They may perceive similar challenges “getting their product to market,” or have developed a business model selling their product direct to consumers from a tap room. It is not uncommon for these tap rooms to become full-fledged restaurants and entertainment venues. Rather than have some people come in and taste the product for possible future sale, their model entails large numbers of customers drinking substantial amounts of product.

To accomplish this evolving business model they often approach policy-makers to add license privileges as a way to increase their business success. And, sometimes, training on good serving practices was not included as a requirement.

Conflicts with other licensees

Because most wineries grow grapes, their tasting room is usually in a rural area. This generally means the customer base is not large enough to operate a full-scale restaurant. While some wineries have sought to become competitors for tourism and weddings, most now rely on “tasting fees” to offset tasting room costs.

The situation is different with breweries. The tap rooms that morph into pubs and restaurants are usually located in urban areas. This makes them direct competitors with local bars and restaurants. In some cases, the retail licensees paid a lot of money for their license. In other cases, a business could not get an alcohol license because the state had a quota and none were available. Brewpubs or tap rooms often evolve into full-scale retail premises by getting changes to their license type which gives them special privileges. Sometimes there is no increase in the license fee nor did the premise have to pay to acquire a license.



For more information, see www.healthyalcoholmarket.com

Public Action Management, PLC, PO Box 531726, Henderson, NV 89053, (503) 936-0443 pam@pamaction.com

This issue recently erupted in Alaska where bar owners objected to the special privileges for small operators. A news article stated, “[retailers] see the current laws that allow breweries and distillers to serve alcohol as disturbing what was once an even playing field, turning it into one that’s unfair. That’s because bar owners have to pay many thousands of dollars for their licenses. “

Cracks in the Three-tier System

We rely on licensed, independent wholesalers to prevent the kind of market domination which created major social problems before Prohibition. The wholesale tier is the key to preventing the vertically integrated businesses which created these problems. That is why our Tied House Laws don’t permit manufacturers to be in the retail business. Some policy makers have reasoned that it won’t hurt the three-tier system if just a few small manufacturers operate differently.

But, several large beer companies have now purchased “craft” breweries with one or more tap rooms. This puts them instantly in the retail business with a greater ability to compete due to their access to large amounts of capital and extensive distribution systems.

Another issue involves tax collection and product tracking. In most states, this is the wholesaler’s job. Allowing some licensees to operate outside this system means a state must set up a separate method to collect taxes and track product. Our three-tier system has worked well for decades. If we allow too much operation outside of this system, we run the risk of weakening it to the point of collapse.

It is also important to recognize that most of the small suppliers are successful *because* of the three-tier system. Not only does the middle tier prevent domination by large companies, trade practice regulations prohibit many strategies that would squeeze out the small guys. Large companies can’t pay retailers for favorable shelf space nor can they work with a retailer to sell their product exclusively. Some states require that all products be sold to all retailers at the same price. These are common practices for other commodities and prevent small companies from “getting their product to market.”

Suggestions:

So, what can a regulatory agency do about this situation? Here are some ideas:

- Understand the marketplace, the alcohol industry and your local market. According to the Gallup Poll, the national rate of alcohol consumption seems pretty flat. The percent of people who drink declined slightly from 2016 to 2017, but the mean number of drinks per week increased slightly. In addition, the “craft” category is now crowded and revenue generation isn’t what it has been in the past. So it’s important to consider the impact of more alcohol outlets on existing businesses and public health.
- During the process of license creation or modification, regulators should be a reliable resource to legislators and other policy-makers. While legislators may not accept all recommendations, they are likely to make the best decisions when presented with all of the facts. Therefore, it would be helpful to point out potential conflicts with other licensees and impacts on the three-tier system.
- Regulators should also remind everyone about the critical importance of retailing responsibilities and the skills required.
- It would be helpful to bring up the issues of the cost and need to maintain a separate method to collect excise taxes and to track products for safety reasons. And, it would be good to note that there may be additional costs for enforcement and licensing.
- Finally, it is important to emphasize that regulations are there to protect public health and safety. It may be a good idea to enlist the help of public health and law enforcement to make the case for doing everything possible to reduce the high cost of alcohol harm to our youth and citizens.

Sources:

[“Sample sales present snag for overhaul of state alcohol laws”](#) by Andrew Kitchenman, KTOO and Alaska Public Media, May 7, 2018

“Special Rules for Small Brewers, Wineries and Distillers,” by Pamela S. Erickson, available at www.healthyalcoholmarket.com.

www.brewersassociation.org/statistics/number-of-breweries
<http://news.gallup.com/poll/1582/alcohol-drinking.aspx>