



## September 2020 Newsletter

### The Balance of Public Health and Alcohol Regulation

By Pamela Erickson

As we slog through this pandemic, people are learning how alcohol regulation is rooted in public health and safety. Such things as closing hours, food service, and other measures are designed to prevent intoxication. We have always known that a lot of intoxication can foster violence, but now we are learning how it can promote virus transmission.

Bars are getting a lot of press these days for being one of the places where transmission of the COVID-19 virus takes place. This has reached the point where some public health officials consider bars as high-risk venues. For example, the Texas Medical Association created a scale of risk for various activities from 1 to 10 and "Going to a bar" is a 9 (there are no 10's). The National Institutes of Health's Dr. Anthony Fauci told a Senate Committee in late June that "congregation at a bar, inside, is bad news."



Many states have taken major steps to reduce this risk. Examples are states that have closed all bars, banned on-premise consumption of alcohol, limited the on-premise sale of alcohol unless it is with food service, reduced premise capacity to 25 or 50%, and invoked early closure of

service hours. (To get a picture of your state, go to the National Alcohol Beverage Control Association website: <https://www.nabca.org/covid-19-resources> - NABCA is tracking the various restrictions for alcohol sales in all states.)

Most states have taken these measures in hopes of curtailing the virus spread. But a clearer picture can reveal that the problem is **not all bars**. The "all bars" narrative comes at a very high cost to businesses and their employees. Closing all, when in reality it's a few violators, creates a major hardship. As the pandemic drags on, these measures become more unpopular and bars and restaurants are hiring lawyers and fighting back. In addition, when drinking is not possible in commercial establishments, we see that people gather in large crowds in private venues, where alcohol consumption is completely uncontrolled - with no age verification, no over-service compliance, and other disregard for alcohol laws.

Alcohol is known as a "dis-inhibitor". This means as people become impacted by their drinking, they may be less likely to wear a mask and observe physical distancing requirements. Alcohol also adversely impacts the immune system making a person more susceptible to acquiring the virus and experiencing complications. Excessive alcohol consumption harms almost every organ in the body and a recent study from Finland shows that it interferes with healthy sleep.

**Maybe we need a better balance.** After all, the idea behind bar and other "on-premise" licenses is that it is a controlled environment where the product can be enjoyed safely. Regulators can help their state strike the right balance by identifying the

specific conditions that foster viral transmission. Usually, these conditions are familiar to regulators as they are often the same ones that provoke fights and violence.

Here are some ways alcohol regulation can be used to prevent excessive consumption and virus transmission:

1. **Food service:** Since food ameliorates the effects of alcohol, it can also help prevent levels of intoxication. Some states, such as Oregon, prohibit the sale of spirits unless the premise is a place where food "is cooked and served." *Toward Liquor Control* made this point in 1935.

2. **Non-alcoholic options:** A drinks menu that includes low- or no-alcohol products can provide an option to help people moderate their consumption. **The market for non-alcoholic beer is growing very strongly** and sales can be a new source of profit. Nielsen found the growth of non-alcoholic beer to be almost 38% during the pandemic and a study of convenience store sales for the first half of 2020 showed a dollar value increase of 41.4% for non-alcoholic beer! More and more suppliers are producing such products, even craft entities.

*When it comes to alcohol, health-minded trends are translated into growth in non-alcoholic segments. For example, off premise dollar growth rates for non-alcoholic beer during COVID time periods are +37.7%, surpassing growth rates of pre-COVID time periods, which were up 26.8% for 52 weeks ending 2/29/20. Source: Nielsen*

3. **Shorter service hours:** The longer a person stays in a bar, the more likely they are to drink to excess, thereby becoming intoxicated and leaving themselves vulnerable to virus transmission and DUI. In normal times, the most common closing time is 2:00 am; however, many jurisdictions have extended closing hours in specific areas for a "vibrant nightlife." On the other hand, closing times of 10 or 11 pm can foster uncontrolled private parties late at night. Licensees need to consider the cost/benefit of staying open late at night and states may need to try to strike the right balance for closing hours that don't foster large "after-hour" parties.

4. **Customer care:** Many patrons try to monitor their consumption to avoid intoxication. However, they lack knowledge and tools to do that. Some licensees put the alcohol content on their drink menus, but patrons need a lot more knowledge about how much they can drink without being impaired. Licensees could put such information on coasters, napkins, and menus. They could have available products that test impairment.

5. **Service to intoxicated patrons:** Most states have laws that prohibit sales to intoxicated persons. Enforcement of these laws is often difficult and some jurisdictions have not made these laws a priority. This seems prevalent in "college towns" where there are bars with scores of intoxicated patrons. While socialization among college students is usually a good thing, it needs to be done in a safe and healthy manner. Fair and firm enforcement of alcohol regulations can help.

6. **Avoid settings that facilitate virus transmission:** We have seen that crowded venues, especially where people stand and mill around, are a possible outlet for virus transmission. Even loud music has shown to be a contributor to problems. If the music is so loud that conversation can't take place in normal tones, people could resort to shouting which is more likely to emit small droplets of saliva. If the saliva contains a virus, transmission can occur. This is why physical distancing requirements involve people seated at tables that are a measured distance from other tables and music is at much lower levels.

7. **Rewards vs Sanctions:** A final consideration is consequences. On-premise establishments have suffered major losses in business. Further, re-opening has often occurred with limited time to train staff. Some have experienced patrons who will not comply with social distancing measures. Coping with unruly patrons is very difficult for staff. A program that rewards licensees for doing the right thing will be much better received. In Oregon, we developed such a program when we worked on the issue of underage drinking. We worked with industry to develop a Responsible Vendor program aimed to reduce sales to underage patrons. The program involved simple policies and actions that could be documented. Those licensees that met the criteria could qualify for reduced penalties if their employee sold to a minor despite the licensee's efforts. In this

pandemic situation, licensees might qualify for longer serving hours, increased capacity or a reduced license renewal fee.

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Photograph of Dr. Fauci is from nih.gov