



November 2020 Newsletter

Learning from the Pandemic Can we do more?

By Pamela S. Erickson

Many of our businesses have taken a major financial hit during the "lockdown" phase of the pandemic. And, during "reopening phases" the ability to make money has been curtailed by capacity limits and fears of customers. For alcohol licensees, this has been particularly acute as in some states, bars have been identified as "super spreader" places. As a result, reopening has been curtailed by tighter regulations or, in some cases, outright bans on selling alcohol.

In a study conducted in the early months of the pandemic, Japanese researchers identified closed spaces with poor ventilation, crowded places, and close-contact settings as places where the virus was likely to spread. Japanese citizens were advised to "Avoid the three Cs!" In this country, states have generally adopted requirements for mask wearing and social distancing for retail establishments. There are also states that have limited operating capacity, only allowed alcohol service with food, and required earlier closing hours.

"We noted many COVID-19 clusters were associated with heavy breathing in close proximity, such as singing at karaoke parties, cheering at clubs, having conversations in bars, and exercising in gymnasiums."

Prime Minister's Office of Japan; Ministry of Health, Labour and Welfare. Avoid the 3-Cs

States are faced with the difficult task of managing both a public health and a financial crisis. It is important to recognize that the public has a major investment in each state's licensed alcohol providers. Whenever someone applies for a license to sell alcohol, the state expends resources to ensure that the applicant is a responsible entity: background checks are conducted for the

responsible individuals; the physical location is usually inspected; and after granting the license, state officials may inspect the premise to ensure the premise is operating as proposed and is compliant with a complicated set of regulations.

Keeping licensees in compliance helps protect our investment. Given this, regulators and public officials have tried to identify ways for licensees to make money by adopting temporary measures that aren't likely to spread the virus. For example, some states have allowed premises to use outdoor spaces, as there is evidence that the virus is less likely to be spread out of doors. Many states have also allowed ordering online with delivery to homes or pick-up for food and alcohol. Most of the exceptions are temporary and will take legislation to make them permanent.

As a former regulator, my experience is that most licensees are compliant. For alcohol regulation to be effective, a high level of compliance is very important.

The question now is: can we do more to prevent the spread of the virus and keep customers safe? Additional measures could involve ways to:

Reduce intoxication: Suggestions include only serving alcohol with food or promoting consumption of low/no-alcohol products. For regulators it may mean greater enforcement of bans on service to a visibly intoxicated person. These laws are not well enforced. It is difficult to make a case, but crucial at this point in time.

Reduce noise levels: Licensed premises may want to rethink the provision of live or recorded music during the pandemic. At a minimum, the

volume could be turned down. Health officials note that loud music can cause people to lean in closer to others, and/or shout to be heard. Shouting and close contact can help spread the virus. Loud music can also damage hearing and be a source of neighborhood noise disputes.

Reduce crowding: A licensee may want to reconsider their physical set-up with an eye to avoiding patrons standing in close proximity. All patrons could be seated at tables and chairs.

"You can't drink through the mask, so you're taking off your mask. There are lots of people, tight spaces and alcohol is a disinhibitor — people change their behaviors,"

Dr. Ogechika Alozie, infectious disease specialist in El Paso, Texas

Appreciation: As a final note, for those licensees that have been compliant, some positive recognition is warranted. While regulators may not be able to send a letter of appreciation to all those that were inspected, a media release might be a solution. This could be a way to thank licensees for their efforts and recognize the difficulties they are going through.

Sources:

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