

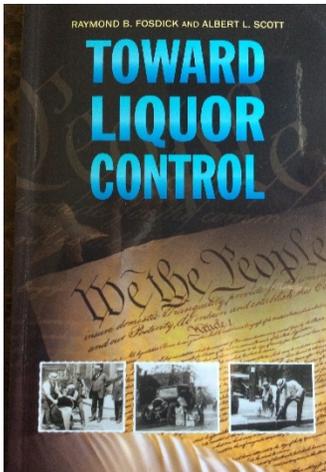


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Toward Liquor Control: The Beginning of US Alcohol Regulation By Pamela Erickson

Critics often attempt to marginalize our alcohol regulations as just Prohibition Era “nanny state” measures attempting to legislate morality. In a recent article in the Washington Post, Dr. Mark Schrad of Villanova University, worked to correct the “common understanding of the Prohibition Era” which he says is based “more on folk lore than fact.” As Professor Schrad notes, “**Prohibitionists were the enemies of predatory business, not individual choice.**”

The book pictured below is the foundation of our alcohol regulatory system and bolsters the notion that alcohol control is about curbing business practices that create social problems, not legislating morality. ***Toward Liquor Control*** describes how regulation does that.



Before Prohibition, alcohol was sold by large companies that owned retail establishments, called saloons, in most local communities. Competition was fierce and aggressive sales were the order of the day. Social problems were rampant and included sales to children, family ruination, public nuisances, intoxication

and addiction. This situation led to a Constitutional Amendment to prohibit all alcohol manufacture, transportation and sales.

As time wore on, Prohibition became increasingly unpopular and past supporters saw the problems of Prohibition. When repeal looked imminent, John D. Rockefeller, a wealthy entrepreneur of the day and non-drinker, commissioned a study of alcohol regulation. The

authors, Raymond Fosdick and Albert Scott, began work in February 1933 and supervised extensive field investigations in several European countries, the Canadian provinces and in various American states. (All listed in an appendix) By October of that year, the book was complete...just in time for states to begin working on the issues when Prohibition was repealed on December 5, 1933.



The repeal language gave states the primary responsibility for regulating alcohol. While some states elected to remain dry at the time, most opted for some type of regulation. Given that few states had much experience regulating alcohol, ***Toward Liquor Control*** served a valuable purpose and most states followed the recommendations to one degree or another.

The authors begin with the need for laws to regulate alcohol. On page 1, they note that other methods have been tried such as moral education or temperance movements, “but in all the long struggle with one of the most difficult human problems law has remained our chief weapon in trying to curb the social consequences of excess.” However, as they learned from Prohibition, such laws must also have the support of the public or they won’t be obeyed.

As a result of their investigations, the authors’ primary recommendation was a system of

“state control”, adopted by 18 and currently operating in 17 of our states. They recognized that many states would adopt a license model, but cautioned that such a system “contains a fundamental flaw in that it retains the private profit motive which makes inevitable the stimulation of sales.” (p. 11)

Most states did adopt a “license model”. However, most also adopted the book’s recommendations for a license system. In addition, many of the “control states” adopted license systems for beer and wine. It is interesting to review the 10 recommendations for a license system to see how they form the bedrock of today’s regulatory systems:

1. A single state licensing board: most states have some type of state board.
2. Board members of high quality not appointed on the basis of political considerations: While board members are usually well qualified, there are political elements to many appointments.
3. Prohibitions on a tied house and “every device calculated to place the retail establishment under obligation to a particular distiller or brewer.” Most states have this provision although exemptions are often granted for small suppliers and enforcement is varied.
4. Restrictions on the number and character of places where liquor may be sold. Included was the need to regulate higher forms of alcohol more strictly than lower forms. Most states have such restrictions in the form of license quotas or prohibitions on location near schools, churches, etc.
5. Classification of licenses by on and off sale, manufacture, processing and transportation. Embedded in the scheme for retail licenses was the need to regulate products of higher alcohol content more strictly than those of lower content. This was the basis for different license classifications. Most states currently have some version of this concept.
6. Regulation on hours of sale: all states regulate the hours of sale. Some have recently extended them.
7. Retail sale should both license the person and the premises. Most, if not all, do that.
8. License law should prohibit sales practices which encourage consumption. Many states have these kinds of prohibitions in their

“happy hour rules” or rules that prohibit high volume consumption sales practices.

9. Advertising should be “rigidly restricted or forbidden.” Many states have rules prohibiting advertising to minors, but expansion of commercial free speech by the US Supreme Court has made advertising bans difficult if not impossible.
10. An effort to control prices and profits. They noted that experience with this objective was limited, but over time most states have developed regulations designed to curb price wars and other practices when price drops induce excess consumption.

Toward Liquor Control is well worth reading and has a lot of wisdom for today’s policy makers. The book can be obtained via Amazon or from the Center for Alcohol Policy, which secured the publishing rights and has republished this important book.

Sources:

Raymond B. Fosdick and Albert L. Scott, *Toward Liquor Control*, The Center for Alcohol Policy, 2011.

“On Prohibition’s 100th anniversary, here’s a distillation of 3 myths about the temperance movement.”, by Mark Lawrence Schrad, The Washington Post, August 1, 2017.