



November 2022 Newsletter

Licensees as Partners

By Pamela Erickson

We need all liquor licensees to be partners in preventing underage and excessive drinking. We are very dependent on these important partners to sell alcohol very carefully. After all, the alcohol industry is a regulated, closed industry and only those with licenses at the supplier, distributor and retailer level may engage in the commercial aspects of the alcohol trade. My experience is that most licensees are good people who do not want to cause harm by their alcohol sales. And, America definitely does not want to go back to the days before Prohibition when large national companies dominated local markets and sold alcohol very aggressively. But occasionally, we see this pattern today whereby companies seem more interested in profit than preventing harm.

To make up for losses during COVID, many states loosened alcohol regulations by allowing more companies to sell alcohol, extending closing hours, and allowing alcohol home delivery. Some media articles even suggest that since alcohol is a "legal" product, it should be able to be bought and sold like any other commodity. This could negate the important partnership we need to have with licensees.

As a former regulator, I object to the characterization that alcohol is just another product for sale. Alcohol is the cause of considerable harm to our society. The CDC notes that there are over 100,000 deaths a year due to the use of alcohol, as well as numerous other societal harms. An article published just this month brought this home to me. It reported on a 5-year period and looked at deaths. The findings indicated that one in five deaths for those 20-49 years of age were attributed to excessive drinking of alcohol. That's a huge amount of deaths! We also know that alcohol is associated with traffic crashes, violence and crime.

Here are some distinguishing factors why alcohol cannot be treated as just another product.

- **First, you can't sell alcohol without a license.** In fact, in some states you must get more than one license. For example, in Georgia, to sell alcohol you must get a state and a local license.
- **Second, the license carries with it substantial responsibilities.** You must abide by laws prohibiting the sale to a minor and to an intoxicated person. This means you must have effective methods that actually prevent such sales. This usually involves establishing store policies as well as training and education of employees.
- **Third, there is an expectation that the licensee will carefully sell the product without the use of aggressive sales tactics which entice vulnerable populations such as underage youth and excessive drinkers.**

Many of these expectations are not in statute or rule, but an expectation of licensure. Sometimes we see merchandising practices that get out of control.

A recent personal example is worth noting. I became aware that some large soda companies want to get into the alcohol business to expand profits. One of those developed Hard Mtn Dew as a collaborative venture between Pepsi and Boston Beer Company. I understood it was to be test-marketed in three states. Since I don't live in any of those states, I didn't expect to see it on my regular grocery store shopping trips.

Imagine my surprise when I almost ran into a display of Hard Mtn Dew paired with a Kool-Aid product in the middle of high traffic area which was next to the kids clothing section. While I knew that this particular store had a liquor license, I assumed that promotional merchandising would be confined to the "alcohol section" in the grocery department. While there's nothing wrong with wanting to make a profit or introducing a new product, with alcohol it should be done with caution because you don't want "everyone" to buy it. I do not know who made the

ultimate call (Pepsi? Blue Cloud? Boston Beer? Target?) to put an alcoholic soda next to a kids drink.

I took this picture and sent it to others that are concerned with these issues.



Since that initial visit, this specific display has been removed and Hard Mtn Dew no longer appears to be for sale in this specific store. But the concern remains.

This issue has raised concerns among the public health community as well as state regulators. [This recent piece in Pluribus News provides a good overview of the issue.](#)

So, my advice to regulators is to use your regulatory powers to demand more attention to this issue. State regulators and public health officials should visit your local businesses that have liquor licenses, meet with management and emphasize how important their role is. Discuss merchandising practices that are appropriate for alcohol. Avoid being overly judgmental. Oftentimes, it's the new employees/managers with little knowledge of

alcohol regulations who may develop displays which are not appropriate for a sensitive product or it may be a decision made “above their head” at headquarters. Further, while this picture is the in store experience, public health officials and regulators must think of the “virtual” store for alcohol sales and marketing for the same concerns.

We need everyone to do their part to prevent more harm from alcohol. Also, when you are doing your routine shopping, take the time to notice whether the licensee is using merchandising practices which encourage age-appropriateness and moderation.

Sources:

Prohibition, a Concise History, W. J. Rorabaugh, Oxford University Press, 2018.

[Deaths from Excessive Alcohol Use in the United States](#), Centers for Disease Control and Prevention.

[CDC study: Excessive alcohol use accounts for one in eight deaths among working-age Americans](#), Kate Randall, November 3, 2022

[Soft Drinks' swerve into alcohol lane tests liquor regulations](#), Austin Jenkins, November 26, 2022