



Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health

Final Report

Annapolis, Maryland
February 2019

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Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health

February 20, 2019

The Honorable Thomas V. Mike Miller, President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Members of the General Assembly

Ladies and Gentlemen:

The Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health respectfully submits its final report. The task force met four times during the 2018 interim. Under Chapter 25 (House Bill 1316) of 2018, the task force was responsible for studying and making recommendations on whether the State agency that now is assigned the tasks of regulating the State alcoholic beverages industry and enforcing State alcoholic beverages laws, the Office of the Comptroller, is the most appropriate agency to ensure the safety and welfare of the residents of Maryland or whether those tasks should be assigned to another State agency or to one created specifically to carry out those tasks.

In doing so, the task force was asked to review a number of issues including the State's alcohol laws in light of recent changes regarding alcohol production, distribution, and sale; the public health impact of alcohol in Maryland; the economic development and employment impact of alcohol in Maryland; and the enforcement at the State and local level of alcohol regulation and laws, including regulatory systems in other states, and the methods by which State and local enforcement agencies interact. The task force was charged with making recommendations on additional policies regarding alcoholic beverages law and proposals to expand the availability of alcohol. Although the task force did not recommend specific legislative language, there are bills that have now been introduced that seek to further several of the task force's adopted recommendations.

I thank the task force members for their diligence and attention to the work of the task force. Also, on behalf of the task force members, I thank Robert K. Smith, Richard L. Duncan, Andrew M. Lantner, Nathan W. McCurdy, David A. Smulski, and Brett A. Ogden of the Office of Policy Analysis, Department of Legislative Services for their assistance.

Very truly yours,



D. Bruce Poole
Chair

DBP/RKS/bao

Maryland General Assembly
Task Force to Study State Alcohol Regulation,
Enforcement, Safety, and Public Health
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Chapter 25 (House Bill 1316) of 2018

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Member of the Public

The Poole Law Group

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Delegate Warren E. Miller

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Representative

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Manufacturer Representative

Heavy Seas Beer

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Distributor Representative

Bob Hall, LLC

Mike Scheuerman

Retailer Representative

Friendship Wine & Liquors

Cindy Mullikin

Craft Brewer Representative

Mully's Brewery

Shelby Watson

Winery Representative

Robin Hill Winery

Ismael Vince Canales

Local Law Enforcement

Fraternal Order of Police

Maryland State Lodge

Raimee Eck

Maryland Public Health Association Member

David H. Jernigan

Public Health Researcher with Alcohol Policy Expertise

Boston University School of Public Health

Gene M. Ransom, III

Department of Liquor Control Administrator

Commissioner, Queen Anne's Co. Liquor Board

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Medical Community Representative

University of Maryland Medical System

Lisa Spicknall

Mothers Against Drunk Driving

Richard Duncan, Andrew Lantner, Nathan McCurdy, Robert Smith, and David Smulski
Task Force Staff

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Executive Summary

Background and Charge

Chapter 25 ([House Bill 1316](#)) of 2018 established the Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health. The purpose of the task force was to review whether the State agency that is now charged with regulating alcoholic beverages in the State, the Office of the Comptroller, is the appropriate agency or whether that function should be assigned to another State agency or to one created specifically to carry out these tasks. Among the factors to be considered in the review were the public health, developments in the law relating to alcohol, changes in the alcohol industry, and economic development. The task force was expected to review the regulatory structure for alcoholic beverages in the State and elsewhere in the nation, review public health impacts of alcohol use and abuse, review economic issues relating to alcohol regulation, and develop recommendations to submit to the General Assembly.

Meetings

Starting in fall 2018, the task force met four times. At the first meeting on September 12, 2018, the task force discussed the charge and the plan for doing its work. The meeting presented an orientation for alcohol regulation in Maryland and public health considerations surrounding alcohol use. Staff of the Department of Legislative Services gave an overview of the State and local regulatory system of licensing and enforcement in the State. Two of the public health members of the task force, Dr. David Jernigan and Dr. Raimee Eck, then presented on the epidemiology of alcohol use and problems in Maryland and on the public health perspective on the alcohol industry.

At the second meeting held on October 16, 2018, the task force heard from State and local regulators and representatives of the alcohol license holders on their functions and public health responsibilities. Mr. Jeffrey Kelly, Director of the Field Enforcement Division of the Office of the Comptroller, spoke about the structure of the division, its oversight and enforcement activities, cooperation with local boards and law enforcement, and public health-related initiatives of the division. Ms. Kathy Durbin, Chief of the Montgomery County Department of Liquor Control, presented information on licensing in Montgomery County, the function of the county dispensary system, enforcement and interagency cooperation, and the impact of public health on county alcohol regulation. Ms. M. Pilar Gracia, Administrator of the Harford County Liquor Control Board, spoke about similar but smaller-scale operations in Harford County. Alcohol license holders in each of the three tiers: distribution; manufacturing; and retail sales presented information on how they function with State and local regulators and how public health considerations intersect with their operations. Of particular concern to the task force was the failure of the authorized positions in the Field Enforcement Division to keep pace with the significant increases in the number of licensed outlets over the past decade, as confirmed by division staff.

The task force's third meeting, held on November 27, 2018, provided an overview of national alcohol regulation and regulatory best practices. Mr. Steven Schmidt and Mr. J. Neal Insley of the National Alcohol Beverage Control Association provided an historical overview of alcohol regulation in the nation since the repeal of Prohibition and described various models of regulatory oversight across the country. The task force

then heard a presentation on regulatory best practices in an effort to balance public safety and economics from Ms. Pamela Erickson of the Campaign for a Healthy Alcohol Marketplace. The meeting concluded with a review of policy options based on the testimony received and the discussion in the task force meetings. Members were encouraged to develop specific proposals for the task force to take up at its final meeting.

The task force's final meeting was held on January 7, 2019. The meeting started with a morning session during which the task force reviewed 39 specific proposals in many policy areas presented by the chair, public health members, and industry members. During the afternoon session, the task force debated each proposal and voted on all that were not withdrawn by the sponsor. In all, the task force made 23 specific recommendations, several of which would require statutory changes.

Recommendations

The task force adopted recommendations in several areas of alcohol regulation and public health in the State. The recommendations included changes in structure and administration, public health considerations, alcohol awareness programs, data collection and sharing, enforcement activities, and licensing and administrative penalties.

Responding directly to its charge, the task force recommended that the alcohol regulatory function, along with the regulation of tobacco and motor fuel performed by the same personnel in the Office of the Comptroller, be placed in a new separate agency. The agency would regulate and enforce these areas of law and related public health considerations. The agency would serve as a clearinghouse for educating the

public through resource sharing and information sharing on the health impacts of alcohol uses and abuse and for coordinating outreach and enforcement among State and local licensing jurisdictions and law enforcement agencies.

Structural and Administrative

- increasing positions in the Field Enforcement Division;
- consideration of “place of last drink” tracking and information sharing;
- prohibiting all alcohol regulators and elected officials on State and local levels from accepting donations from the alcohol, tobacco, or motor fuel industries;
- larger and more conspicuous labeling of certain alcohol products;
- keeping oversight of alcohol taxation in the Office of the Comptroller; and
- affirming that the State's three-tier system remains preferable to a control state system and should not be changed.

Statewide Public Health

- considering a two-pronged approach to social host liability by adding the potential for incarceration for furnishing or allowing underage consumption in the home, and establishing a statewide civil social host law; and
- requiring a public health impact statement for all changes to the alcohol laws of the State.

Alcohol Awareness Programs

- mandatory certification of all license holders, managers, and servers at retail establishments; and
- requiring that at least one employee certified under an Alcohol Awareness program be on site at all times that

alcohol is served under a permanent license, without local exceptions.

Data Collection

- maintaining a statewide database of individuals certified by Alcohol Awareness programs; and
- maintaining an accurate statewide license database.

Enforcement Activity

- development of guidelines for local board funding and support of administrative enforcement activities, such as inspections and compliance check;
- yearly compliance checks in addition to regular inspections;
- development of guidelines for the minimum capacity for inspections based on the number and type of licensed outlets in a licensing jurisdiction;
- development of mandatory State-provided training for liquor inspectors based on best practices.
- basing liquor inspections on data rather than only on the quantity of yearly inspections; and
- reporting of aggregate violation and incident data between local law enforcement and local liquor boards.

Licensing and Administrative Penalty

- timely reporting of State-issued licenses and permits to local jurisdictions; and
- study of the implementation of graduated penalties across the State for violation of laws on sales to minors and to intoxicated individuals.

Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health

Background and Charge

Chapter 25 ([House Bill 1316](#)) of 2018 established the Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health. The task force included legislators, representatives of State agencies, a representative of a local licensing board, members representing public health interests, and members representing various sectors of the alcohol industry in the State. The purpose of the task force was to review whether the State agency that is now charged with regulating alcoholic beverages in the State, the Office of the Comptroller, is the appropriate agency, or whether that function should be assigned to another State agency or to one created specifically to carry out these tasks. Among the factors to be considered in the review were public health, developments in the law relating to alcohol, changes in the alcohol industry, and economic development. The task force was expected to review the regulatory structure for alcoholic beverages in the State and elsewhere in the nation, review public health impacts of alcohol use and abuse, review economic issues relating to alcohol regulation, and develop recommendations to submit to the General Assembly.

In preparation for the work of the task force, members were provided with a link to a 2017 background publication on alcohol regulation prepared by the Department of Legislative Services (DLS), [Regulation of the Alcoholic Beverages Industry in Maryland](#).

Meetings

Starting in fall 2018, the task force met four times. At the first meeting held on September 12, 2018, the task force discussed the charge and the plan for doing its work. The meeting presented an orientation regarding alcohol regulation in Maryland and public health considerations surrounding alcohol use. Staff of DLS gave an overview of the State and local regulatory system of licensing and enforcement in the State, as well as a preliminary overview of alcohol regulatory systems across the nation. Two of the public health members of the task force, Dr. David Jernigan and Dr. Raimee Eck, presented on the epidemiology of alcohol use and problems in Maryland and on the public health perspective on the alcohol industry.

At the second meeting held on October 16, 2018, the task force heard from State and local regulators and representatives of the alcohol license holders on their functions and public health responsibilities. Mr. Jeffrey Kelly, Director of the Field Enforcement Division of the Office of the Comptroller, spoke about the structure of the division, its oversight and enforcement activities, cooperation with local boards and law enforcement, and public health-related initiatives of the division. Ms. Kathy Durbin, Chief of the Montgomery County Department of Liquor Control, presented information on licensing in Montgomery County, the function of the county dispensary

system, enforcement and interagency cooperation, and the impact of public health on county alcohol regulation. Ms. M. Pilar Gracia, Administrator of the Harford County Liquor Control Board, spoke about similar but smaller-scale operations in Harford County. Alcohol license holders in each of the three tiers of distribution, manufacturing, and retail sales presented information on how they function with State and local regulators and how public health considerations intersect with their operations. The task force discussed a number of issues related to local alcohol regulation initiatives in the public health area, as well as health and consumer education issues in locally licensed premises.

The task force's third meeting, held on November 27, 2018, provided an overview of national alcohol regulation and regulatory best practices. Mr. Steven Schmidt and Mr. J. Neal Insley of the National Alcohol Beverage Control Association provided an historical overview of alcohol regulation in the nation since the repeal of Prohibition and described various models of regulatory oversight across the country. The task force then heard a presentation from Ms. Pamela Erickson of the Campaign for a Healthy Alcohol Marketplace on regulatory best practices in an effort to balance public safety and economics. The meeting concluded with a review of policy options based on the testimony received and the ensuing discussion. Members were encouraged to develop specific proposals for the task force to consider at its final meeting.

The task force's final meeting was held on January 7, 2019. The meeting started with a morning session during which the task force reviewed 39 specific proposals in many policy areas presented by the chair, public health members, and industry members. The task force proceeded through each recommendation in turn, and had an opportunity to fully discuss the pros and cons of each item, and potential changes that might be made. In a number of cases, the chair recommended that members take up more specific ideas to amend proposals during the lunch break before the afternoon decision session. A copy of the proposed recommendations is attached to this report as **Appendix 2**.

During the afternoon session, the task force debated each proposal and voted on all that were not withdrawn by the sponsor. A number of amendments were adopted after debate. In all, the task force made 23 specific recommendations, several of which would require statutory changes. The text of the adopted recommendations, numbered in parallel with the proposed recommendations, is attached to this report as **Appendix 3**.

Recommendations

The task force adopted recommendations in several areas of alcohol regulation and public health in the State. The recommendations included changes in structure and administration, public health considerations, alcohol awareness programs, data collection and sharing, enforcement activities, and licensing and administrative penalties.

Responding directly to its charge, the task force recommended that the alcohol regulatory function, along with the regulation of tobacco and motor fuel performed by the same personnel in the Office of the Comptroller, be placed in a new separate agency. The agency would regulate and

enforce these areas of law and related public health considerations. The agency would serve as a clearinghouse for educating the public through resource sharing and information sharing on the health impacts of alcohol uses and abuse and for coordinating outreach and enforcement among State and local licensing bodies and law enforcement agencies.

Structural and Administrative

The structural and administrative recommendations included:

- increasing positions in the Field Enforcement Division;
- consideration of “place of last drink” tracking and information sharing;
- prohibiting all alcohol regulators and elected officials on State and local levels from accepting donations from the alcohol, tobacco, or motor fuel industries;
- having larger and more conspicuous labeling of certain alcohol products;
- curtailing further expansion of “one stop shopping” whereby alcohol can be purchased with groceries and other retail goods;
- keeping oversight of alcohol taxation in the Office of the Comptroller; and
- affirming that the State’s three-tier system remains preferable to a control state system and should not be changed.

Statewide Public Health

The public health recommendations included:

- considering a two-pronged approach to social host liability by adding the potential for incarceration for furnishing or allowing underage consumption in the home, and establishing a statewide civil social host law; and
- requiring a public health impact statement for all changes to the alcohol laws of the State.

Alcohol Awareness Programs

Recommendations relating to alcohol awareness programs included:

- requiring mandatory certification of all license holders, managers, and servers at retail establishments; and
- requiring that at least one employee certified under an alcohol awareness program be on site at all times that alcohol is served under a permanent license, without local exceptions.

Data Collection

Data collection recommendations included:

- maintaining a statewide database of individuals certified by alcohol awareness programs; and
- maintaining an accurate statewide license database.

Enforcement Activity

Recommendations relating to enforcement included:

- requiring the development of guidelines for local board funding and support of administrative enforcement activities such as inspections and compliance check;
- requiring yearly compliance checks in addition to regular inspections;
- requiring the development of guidelines for the minimum capacity for inspections based on the number and type of licensed outlets in a licensing jurisdiction;
- requiring the development of mandatory State-provided training for liquor inspectors based on best practices;
- basing liquor inspections on data rather than only on the quantity of yearly inspections; and
- requiring the reporting of aggregate violation and incident data between local law enforcement and local liquor boards.

Licensing and Administrative Penalty

Licensing and administrative penalty recommendations included:

- timely reporting of State-issued licenses and permits to local jurisdictions; and
- study of the implementation of graduated penalties across the State for violation of laws on sales to minors and to intoxicated individuals.

The numbered proposed recommendations, which are attached to this report as Appendix 2, include the items that the task force adopted, adopted with amendments, or rejected, as well as those withdrawn by the sponsor. The adopted recommendations maintain the numbering of the proposals, and are attached to this report as Appendix 3.

The task force made recommendations as statements of policy changes in each of these areas but did not adopt specific legislative proposals. The recommendations were made with the understanding that the legislative members of the task force would be able to draft and introduce legislation that would include appropriate recommendations on some of these topics. Because of the different subject matter of some of these recommendations, not all were appropriate to include in the same bill.

Meeting Minutes

September 12, 2018

The task force conducted its first meeting on September 12, 2018. After introduction of the members and staff of the task force, Chair D. Bruce Poole reviewed the charge of the task force as set out in Chapter 25 ([HB 1316](#)) of the Acts of 2018. The principal charge of the task force is to review whether the State agency that is now charged with regulating alcoholic beverages in the State, the Office of the Comptroller, is the appropriate one, or whether that function should be moved elsewhere. Among the factors to be considered in the review are public health, developments in the law relating to alcohol, changes in the alcohol industry, and economic development. The task force is expected to review the regulatory structure for alcoholic beverages in the State and elsewhere in the nation, review public health impacts of alcohol use and abuse, review economic issues relating to alcohol regulation, and develop recommendations to submit to the General Assembly in the form of a final report.

The chair presented an initial plan of action for the task force. The task force was expected to do its work over the course of four meetings from September through December. At the first meeting, the task force would have an overview of State and local alcohol regulation, and an overview of public health considerations in alcohol regulation and use. The second meeting would deal with the State and local functions and public health responsibilities of regulators in the alcohol field, and of licensees within the State. The third meeting would provide information on the structure of alcohol regulation in other states, and changes in the industry and Maryland law relating to the sale and consumption of alcoholic beverages. The fourth meeting would be reserved for the assessment of options by the task force and the development of concrete recommendations for the General Assembly.

The task force then received a presentation on alcoholic beverages regulation in Maryland by staff of the Department of Legislative Services. Andrew Lantner spoke about the history of alcohol laws in the State, the history of former Article 2B of the Code, and the development of the current State and local regulatory system. At the end of Prohibition, an influential study by Raymond Fosdick and Albert Scott, *Toward Liquor Control*, guided policymakers throughout the country in considering and adopting models for simultaneously fostering and promoting temperance while allowing access to the legal sale of different categories of alcoholic beverages. The book recommended classifying beverages based on the perceived dangers of each type – beer, wine, and spirits – and imposing different levels of taxation based on those dangers. In addition, *Toward Liquor Control* suggested two competing models, the control model and the licensing model. Under the control model, a jurisdiction is directly involved in the control and sale of alcoholic beverages through dispensaries, while under the licensing model the jurisdiction issues licenses to private entities that are manufacturers, distributors, and retailers of alcoholic beverages. Maryland is primarily a licensing jurisdiction, though there are elements of control in four counties that maintain or have maintained dispensaries for some alcoholic beverages – Montgomery, Somerset, and Wicomico counties, and formerly Worcester County – with Montgomery having the greatest control over the distribution and sale of all three categories of alcoholic beverages.

The licensing system in Maryland is a “three-tier system,” under which licenses are needed to manufacture, distribute, and sell at retail alcoholic beverages. The first two tiers, manufacturing and distributing, are licensed at the State level through the Office of the Comptroller. The third tier, retail sales, is licensed at the local level by a board of license commissioners in each county and by two municipalities, Baltimore City and the City of Annapolis. Retail operations are largely regulated at the local level by the boards of license commissioners, through hours of sale, quotas and location restrictions, food percentages, and dry areas. For State-issued manufacturer’s licenses that have a retail sale component, such as the tasting room operations at Class 5 breweries, the State and local regulatory operations overlap, with the State overseeing the manufacturing operations, and the local board overseeing retail sales laws compliance.

At the State level, the Field Enforcement Division in the Office of the Comptroller is the unit that regulates the operations of manufacturers and distributors. The division also regulates tobacco products and motor fuel operations in the State. The division conducts alcohol quality inspections in coordination with business operations inspectors of other State agencies. The Revenue Administration Division is the other unit in the Office of the Comptroller that deals with alcoholic beverages. That unit oversees the collection of the two State taxes imposed on alcohol – an excise tax and a 9% sales tax.

Mr. Richard Duncan of the Department of Legislative Services then spoke briefly on a preliminary 50-state survey of alcoholic beverages regulators. The survey indicated that Maryland’s alcoholic beverages law is generally congruent with that of the majority of states in several respects, in that the state-level governing body of roughly half the states is an executive agency that in turn reports to an executive agency, rather than the chief executive. While many different types of agencies oversee alcoholic beverages in the various states – public safety, business regulation, commerce, alcoholic beverages control, and consumer protection – roughly 10 out of 30 licensing state agencies report to a revenue agency. Maryland differs in that it gives control over retail operations to the local level, which only Arkansas, Hawaii, and Nevada also provide.

In response to questions, it was noted that the survey does not indicate in which other states the governing body reports directly to an elected official. That information will need to be provided later. One of the members noted that he had also looked at the issue of alcohol regulatory agencies in the states, and had a somewhat different take on Maryland’s place among the states, based on looking only at licensing states, and excluding control states.

At the request of the chair, the task force then watched a short video of a local news story on the consequences of alcohol abuse among young adults, including the incidence of cirrhosis necessitating liver transplants in those in their twenties.

The task force heard an overview of public health considerations from two of its members. Dr. David Jernigan presented on the epidemiology of alcohol use and problems in Maryland, followed by Dr. Raimee Eck on the public health perspective on the alcohol industry generally.

Dr. Jernigan is a professor at the Boston University School of Public Health, and an adjunct professor at the Johns Hopkins Bloomberg School of Public Health. He stated that alcohol was responsible for 3.3 million deaths each year globally. In the United States alone, the figure is 88,000 such deaths, of which 4,300 are of those under 21 years of age. It is also the leading cause of death worldwide for those between the ages of 15 and 49. Alcohol is a component cause of more than 200 disease and injury conditions, and is a known carcinogen.

Although life expectancy in the United States has generally risen since 1900, the trend is now shifting downward, starting with middle-aged non-Hispanic white adults. Alcohol has been implicated in poisonings and overdoses, alone and in conjunction with opioids and other drugs. Alcohol is a cofactor in suicides, and is a prominent cause of cirrhosis of the liver.

Dr. Jernigan presented information from a number of studies showing that alcohol consumption has been on the rise nationally, comparing 2001-2002 to 2012-2013, with the greatest increases occurring among women, older adults, racial and ethnic minorities, and individuals with lower educational levels and family incomes. Emergency department visits over the past several years have increased, including alcohol-specific causes and injuries with alcohol as a contributing factor.

There are differences among drinkers generally, binge drinkers, and heavy drinkers. Not all heavy drinkers are necessarily alcohol dependent, but when they drink, they do so heavily. According to the Centers for Disease Control, binge drinking has been shrinking as a problem. A study in *JAMA Pediatrics* found that one half of adults have consumed alcohol through binge drinking, while among the young consumers, the figure is two-thirds.

According to Dr. Jernigan, the current teen population is among the healthiest in years, with lower rates of drinking, smoking, and unintended consequences. The current problem cohort is young adults 26 years of age and older. In that age group, overdoses and over-intoxication are on the rise. He then cited a number of statistics from studies in Baltimore City on alcohol-related incidents and health outcomes.

Dr. Eck then presented testimony on public health perspectives in the alcohol industry. She is the president of the Maryland Public Health Association. Part of the task of public health is looking at the factors that affect the public health, from small to large impacts. Different issues require different approaches – some may require counseling and education; others may need clinical intervention such as vaccinations. One significant area for public health is in trying to change the context for individual decision making so that default decisions can become healthier. A goal of public health advocates in recent years has been the implementation of a “health in all policies” review process at the level of states and local governments in order to embed health consideration in decision making.

From the public health perspective, alcohol is regulated because of the associated incidence of acute injuries, acute and chronic health effects, societal effects, and harm to others. For these reasons, typical business practices may not apply to alcohol marketing and sales. The 1933 study referred to by staff of the Department of Legislative Services, *Toward Liquor Control*, has been

used as a model in public health areas as well. There are several current issues and challenges in alcohol regulation from a public health perspective. This includes the push to deregulate or to loosen regulation on retail sales, often accompanied by characterization of the current system as “outdated” or “antique,” while misunderstanding what alcohol regulatory systems are meant to do. The rise of craft brewers and distillers has presented new challenges as well. The crossover with efforts to legalize marijuana, the rise of e-commerce, and reductions in funding that effectively deregulate are additional concerns.

Product innovation involving higher alcohol content by volume interferes with consumers’ understanding of what they are drinking and how their tolerance may not match prior experience. Similar confusion arises with new products that combine alcohol with other active compounds such as THC and caffeine.

The public health frame of regulation suggests a need to regularly review policies and updates as part of a well-functioning alcohol regulatory system. The system deals with a specialty product that should provide protections for consumers and for the half of the population who are nonconsumers as well. The three-tier system assists in effective enforcement of alcohol laws and ensures accurate tax collection.

Dr. Eck suggested the use of a “health in all policies” approach to alcohol regulatory review, including collaboration with other industry sectors. The process should take time to consider broad policy purposes of the law, whether it still serves that purpose, or if there are other laws that do the same, and whether other societal factors either further or nullify the purpose.

The task force then discussed a number of the statistics brought up in Dr. Jernigan’s discussion, the different sources that were available for data, and the difficulty of finding consistent data that could be used for comparisons in different populations of the State and other jurisdictions. The task force also discussed differences among different alcohol products, particularly craft beer products, and the varying strategies that the producers and retailers use to educate consumers.

The public health members and Mr. Webster Ye from the Maryland Department of Health engaged in discussion on available health data for alcohol and comparable information for the ongoing opioid crisis, which is an Administration priority. The task force also discussed generally the public health policy and economic trends in alcohol regulation elsewhere in the nation, some of which was expected to be explored more fully at later meetings.

October 16, 2018

The second meeting of the task force took place on October 16, 2018. The overall focus was on the State and local functions and public health responsibilities of regulators, and the functions and public health responsibilities of alcoholic beverages licensees, respectively. The regulatory panel included a representative of the Office of the Comptroller; a representative of a local control jurisdiction, Montgomery County; and a representative of a local licensing jurisdiction, Harford County. The industry panel included a beer distributor, a craft brewer, and a liquor store owner who represented the Maryland State Licensed Beverage Association.

The first regulatory presentation was made by Mr. Jeffrey Kelly, director of the Field Enforcement Division of the Office of the Comptroller. He described the three-tier system in response to the unregulated arena found in the State before Prohibition, when tied houses and saloons provided free meals and a range of illegal activities including gambling and prostitution. When Prohibition was enacted, Maryland was the only state that refused to enact a local enforcement statute to implement the federal Volstead Act. With the repeal of Prohibition, Maryland chose to follow the licensing model proposed under *Toward Liquor Control*, but in a unique way, with a three-tier system in which the State licensed the manufacturing and distribution tiers, and local jurisdictions licensed the retail sales tier. Maryland does not have a “pure” tier system. Over the years, license holders in all three tiers have been able to obtain privileges of one or both of the other tiers. A chart of current tiers demonstrated the overlap among the licenses. In addition to licenses, there is also a wide variety of permits that may be issued. The presentation included an explanation of the major State-issued licenses, permits, and associated fees.

State-level public health and safety efforts include routine liquor dealer inspections, as well as covert and undercover investigations. The division works in partnership with local jurisdictions and task forces, and maintains cooperative relationships with the regulated industry. The personnel of the division are police officers, with 25 sworn officers and 7 inspectors. One of their chief concerns is preventing the sale of tainted alcohol in the State. Although there are stories of poisonings and even deaths in other countries from tainted alcohol, none have been reported in Maryland, because the division is working to keep the product safe to consume.

The next presentation was from Ms. Kathy Durbin, the Chief of Licensure, Regulation and Education in the Montgomery County Department of Liquor Control. Ms. Durbin briefly explained the history and structure of the department. In the area of public health, the department created its own compliance program for under-21 alcohol checks. The department regularly works with county police and inspectors.

The department shares industry best practices. It follows strict protocols for inspections, and has thrown out inspections when department protocols were broken. The department developed an incentive program through a grant program.

In industry outreach, the department has developed an Alcohol Law Education and Regulatory Training (ALERT) program that complements State training. The departmental board

has made ALERT training a mandatory part of its penalty program, seeking to educate and not merely penalize establishments involved in violations. The ALERT program is free of cost, and is also available in Spanish.

The county license office issues approximately 1,200 licenses. The county maintains a prelicensing program for license applicants to make sure that the applicants are applying for the right license, especially as some of the licenses in the county are quite complicated. The department also provides training for those seeking per diem licenses, coordinating with the Archdiocese of Washington.

The department uses technology extensively, from the electronic fingerprint program to the use of tablets in the field for inspections, eliminating the use of paper as much as possible.

Ms. Durbin also explained other aspects of the departmental operations and outreach efforts in the community.

The next presentation was given by the counsel and Administrator of the Harford County Liquor Control Board, Ms. M. Pilar Gracia. She noted that Harford County has a licensing model, fairly typical of a smaller jurisdiction. The board is entirely supported by license fees, which are limited by State legislation. Some fees have not changed in more than two decades. The board is appointed, and has a staff of five, much smaller than the operation in Montgomery County. There are approximately 200 license holders in the county, including approximately 600 named individuals on the licenses.

The board only has authority to enforce alcoholic beverages laws on premises that hold a county-issued alcohol license. If the board receives a complaint about a nail salon that offers complimentary drinks, it must refer the matter to the police or to the Office of the Comptroller, because there is no license for the board to take action on. The board undertakes parallel enforcement with the Office of the Comptroller. Local show-cause hearings may be referred to the board by the Office of the Comptroller, and any appeals from them are taken in the circuit court.

According to Ms. Gracia, the most common problem in Harford County is underage drinking. Premises inspections are done quarterly, by paying troopers overtime, because no grants are available. She noted that the board does not regulate breweries, wineries, or distilleries in the county, except for a Class DBR brewery license held by both breweries located in the county.

The task force then discussed a number of matters with the State and local regulator panel members. An industry member of the task force recalled working with the Field Enforcement Division on an initiative in Prince George's County, and commented on the good cooperative relationship between the division and the industry. Mr. Kelly noted that all his agents have 20 or more years of police experience. They are also able to receive information on possible criminal activity from a concerned industry member and keep it confidential. This encourages an ongoing cooperative relationship for the benefit of all parties.

The local board member of the task force stated that his jurisdiction is quite small, with only 70 or so licenses. They have only one inspector, and little in the way of resources for sharing information and documentation. Ms. Durbin passed along several suggestions for information sharing among local boards. Ms. Gracia added that a lot of the very good work that Montgomery County has been able to do has been through obtaining grants. It would be an improvement to have a central repository of regulatory information and materials in the State.

There was also discussion on how various local jurisdictions see the issue of enforcement of furnishing alcohol to minors at house parties. While some jurisdictions have a “parent alert” situation, the statewide social host law may not be entirely workable. There are related issues of younger servers in licensed establishments serving those who are underage. This is a matter for compliance checks and enforcement. But those may vary widely from jurisdiction to jurisdiction, and this underscores the difficulties of relying on license fees that may be inadequate or chasing grant money for targeted programs. Some local jurisdictions may supplement license fees with general funds, but this is not the norm in the State.

On the issue of compliance checks, there was a discussion of the use of “place of last drink” data, both officially and on a grassroots basis. The members asked about sting operations in Montgomery County with its dispensary system, and elsewhere.

Mr. Kelly reported that approximately 7,300 retailers were licensed in the State. In addition, there are approximately 20 distributors and 90 or so breweries. To handle its operations, the division would be fully staffed at 65 to 70 people: a few to handle motor fuel, 25 handling alcohol licensing and enforcement, and 8 inspectors. Asked if the division were adequately staffed, Mr. Kelly responded that as a State agency, they would always like to have more. But the agency is able to do what it is required to do.

An industry member asked if the division operations include conducting audits for tax payments by license holders. Mr. Kelly responded that his office does not collect taxes or conduct audits. The auditors are in a different division of the Office of the Comptroller. They handle the accounting of amounts of alcohol coming in and going out of the licensed premises, and related regulatory compliance issues. If the auditors spot an issue for the Field Enforcement Division, they share that information.

Mr. Kelly was then asked whether, without the cooperation of distributors, his job would be significantly more difficult, in the area of trade practice and regulatory enforcement. He responded that most distributors are very good, and some are okay. The value of the license is high, and that is well understood. The loss of license is a great risk. License holders are now able to come in and ask questions about practices and their legality, rather than going out to do something and later be found in violation.

The chair asked about the issue of confidentiality of information and was told that the confidentiality issues are primarily on the tax side, not the compliance side. The chair then asked about educating the public on the level of alcohol in some of the newer products, and whether and how that information is being communicated to the consuming public. Mr. Kelly responded that

the labeling is approved on the federal level, not on the state level, and there is no specific State requirement at this point on labeling or content of alcoholic beverages.

The task force then spoke for some time about the intersection between public health and alcohol regulation. It is at the local level rather than the State level that most consumer protection occurs in alcohol, unlike tobacco. And as noted earlier, funding for enforcement and education at the local level varies widely from jurisdiction to jurisdiction.

After this, the task force heard presentations on distribution, manufacturing, and retail sales sectors of the alcohol industry. The first presentation was by Eric Best, a task force member who belongs to the Maryland Beer Wholesalers Association. Mr. Best provided a video presentation on the three-tier system which spoke about the history of alcohol regulation and the problems associated with alcohol sales before Prohibition. In some countries such as the United Kingdom, systematic deregulation of alcohol has occurred, and has been correlated with adverse health impacts including an increase in the incidence of cirrhosis and related issues.

Mr. Best went on to describe the three-tier system in Maryland from the distributor's perspective, including the cooperative relationship that license holders have with the Office of the Comptroller. He stated that alcohol regulation helps maintain orderly markets, levels the playing field for participants, provides access to markets, and promotes consumer choice. He also praised the integrity of the tiers, under which each tier is independent and cannot be subject to undue influence by a participant in a different tier.

Task force member Cindy Mulliken, owner of Mully's Brewery and President of the Brewers Association of Maryland, presented on behalf of the manufacturing tier. She described the manufacturing licenses available to brewers, and gave background on her own establishment. Started five years ago with her husband, the business now has seven employees, and is located in an industrial park. She holds a federal brewer notice, a Class 5 brewery license from the Office of the Comptroller, and a Class D license from the county liquor board. For distribution, she has six distributor partners in the State, and does some self-distribution under a Class 7 limited wholesaler's license.

On the issue of public health, her establishment takes seriously the issues of underage service and overconsumption. The alcohol content of their beers is approximately 5% for average brews, 7% for specialty brews, and the highest content is 9%. Each brew is labeled, and the brewery makes sure to educate the customers of the alcohol content of each brew. The beer menu lists the alcohol by volume for each type of beer. Under federal law, beer may not vary more than 0.3% from the content listed on the label. In addition to alcohol regulations, the brewery is also subject to health and safety compliances under federal and State law for occupational safety and health, as well as local county fire and safety inspections. Mully's is a relatively small brewery in Calvert County, and this is the first year that their output has exceeded 1,000 barrels.

All the brewery's servers must have alcohol awareness training. In addition, the brewery provides in-house training on underage service and on behavior training to guard against serving individuals who may have become intoxicated before coming to the brewery, including techniques

on how to stop serving a customer. If a customer does appear to be overserved, the brewery employs methods to make sure that the customer does not leave while impaired, including calling for a pick up or arranging for a Lyft or Uber ride.

On the subject of stronger beers, the brewery pours smaller servings of brews that exceed 7.5% alcohol by volume. Other breweries will also limit the number of pours of the stronger brews per customer.

Due to the absence of an available retail member, the task force was addressed on the topic of retail license operations by Jack Milani, the Legislative Chairman of the Maryland State Licensed Beverage Association. He noted that much of the relevant material had already been covered by earlier presenters, particularly the local board representatives. He holds a Class D on- and off-sale license in Baltimore County.

For a new retail applicant in most jurisdictions, there is a locality requirement. Applicants must be fingerprinted, and may not have an interest in a manufacturer or distributor license. In his jurisdiction, there is a population quota system, and any new applicant must prove that there is demand for a new license to be issued. There is required alcohol training and knowledge of the rules and regulations of the State and the local board.

Mr. Milani asserted that retailers come from the community, they want their community to prosper and their employees to prosper. Due to the cost of training new hires, retailers want to keep their employees for as long as they can.

Local license renewal comes up every April. Protests may arise, but are most commonly found in Baltimore City. They may be based on complaints. In terms of enforcement, underage service violations are most commonly handled as administrative offenses, though they may give rise to criminal charges.

In terms of education about higher alcohol content, his employees remind customers that for the higher content brews, “one is two” – that is, each serving should be counted as two drinks for gauging the drinker’s capacity to handle the alcohol and wait to become sober again.

He has a personal stake in making sure that proper caution is taken to make sure that underage service and overconsumption do not occur at his premises, since his wife has been a substance abuse coordinator in the county, and then at two institutions of higher education. He guarantees to his servers that if they cut off a customer from service their tip will still be covered by the establishment. In addition, his employees are now trained to administer Narcan, the anti-opioid drug. This goes along with being part of the community.

Mr. Milani ended by stating that the three tiers are in place for a good reason. While he and his fellow retailers may share some disagreements with other tiers from time to time, all of them are trying to protect the community and the consumer.

One of the members asked the panel what their thoughts were on the three-tier system, whether it is working, and whether there were agreed changes that would be important for the industry. Mr. Best answered that while that was a question that he has spent an entire legislative session on, the system is generally working well. Things may evolve, but then appropriate changes can be agreed on.

Pressed on whether the current regulatory enforcement mechanism is working, Mr. Best asked if that meant they were adequately staffed. He opined that if the licensed participants were not playing well, the Field Enforcement Division would be seriously understaffed. The laws are good laws, but their enforcement currently is dependent on the good behavior of the participants. Ms. Mulliken added that the industry is changing, and there needs to be a changing of the tides. They are regulated by several different agencies.

Mr. Milani stated that their association did try to meet in the fall and work out some issues with respect to the Class 6 pub-brewery and Class 7 microbrewery licenses, and they are currently working on changes to the Class 5 brewery license. Several years ago, there was a similar process to modify the laws on winery shipment, and on out-of-state wine clubs.

There followed an extended discussion on craft manufacturing development, changes in distribution, and evolution in the industry, particularly the interplay between large retailers and smaller entities, and large versus small producers in the Maryland market.

Following the presentations and related discussion, the chair opened up a roundtable discussion. He asked where the task force was in relation to Chapter 25 (House Bill 1316), and where the task force wanted to proceed in its next meeting. He asked what information the task force members wanted to have ready for the next meeting. The charge of the task force was to examine whether the current State alcohol regulatory agency is the most appropriate one, or whether its function should be transferred either to another agency or to a newly created agency. At the next meeting, presenters will come in to speak about systems in other states. The chair asked if there were other interests from whom the task force would like to hear.

One member asked about the part of the charge relating to additional outlets for alcohol. Another asked for discussion on where the current State regulatory authority might be moved to, and what were the clear justifications for keeping it in the current agency as opposed to a new placement.

The chair asked if it is appropriate for the entity that regulates and enforces the alcohol industry to also be doing promotion of the industry at the same time. He also noted the issue of having an officer who is popularly elected overseeing this industry.

One of the legislator members asked what it is now costing the State to regulate alcohol under the current system, and what it would cost to create a new regulating entity.

One of the public health members asked about information on incidents of binge drinking and underage drinking, and wondered how they vary from county to county. The chair responded

that the evidence from Montgomery County showed that “place of last drink” tracking can have a powerful impact, and wondered what may be happening in other counties and in other states.

The local board member suggested that the task force take prohibition and tax increases off the table explicitly, as well as repeal of the three-tier system. The chair added that he believed the three-tier system was something with which the State should stick, but that anyone who disagreed should let him know within the next week.

The local board member added that he believed that an update to the social host statute would be appropriate.

One of the other public health members advised that it would be very challenging to develop reliable granular data on binge drinking, underage drinking, and “place of last drink” data in some parts of the State.

Other members suggested that the task force look at ways to improve the three-tier system, to develop lists of best practices for license holders and local regulators, and to look forward to ways to handle the rapid evolution in some sectors of the industry while simultaneously protecting the public and not hampering businesses.

November 27, 2018

The third meeting of the task force took place on November 27, 2018. The overall focus was on national alcohol regulation and regulatory best practices. The topic of regulatory structures in different states was presented by representatives of the National Alcohol Beverage Control Association. Following this, the task force received information on best practices to balance public safety interests with business interests. Finally, staff to the task force reviewed topics for recommendations to include in the deliberations at the final meeting of the task force.

Before the presentations began, Mr. Eric Best, a task force member and licensed distributor, described the facts surrounding a situation that had come up with the review and marketing of large-pack beer in the College Park area.

Mr. Steven Schmidt and Mr. J. Neal Insley of the National Alcohol Beverage Control Association then gave a 50-state overview of the alcohol regulatory landscape in the United States. They stated that the association represents control systems jurisdictions, including the four control jurisdictions in Maryland – Montgomery, Somerset, and Wicomico counties, and formerly Worcester County. The association is neither an advocacy nor a beverage organization. It is a “big tent” that includes government officials, enforcement agencies, public health, alcohol industry sectors and tiers, and international interests.

As the task force had heard in earlier discussions, the presenters noted that alcohol is not an ordinary commodity, it is a unique commodity, with characteristics that demand specific

regulation. In particular, science must be used to inform and to enforce alcoholic beverages regulation. A balance must be struck between public safety and commercial interests.

The pillars of alcohol regulation are: (1) protecting public health and safety; (2) ensuring efficient tax and revenue collections; (3) eliminating unfair or illegal marketing practices; and (4) balancing relevant interests. The most common elements of regulation are the efficient collection of revenue, and the operation of an orderly marketplace.

The presenters commented that the task force is one of the better formulated study groups they have seen in the country. It has good representation from all sectors – policymakers, public health interests, public safety interests, and the regulated industry.

Regulation of alcohol is important not only for the portion of the population that consumes alcohol, but also the portion that does not. According to Centers for Disease Control and Prevention data from 2016, of Marylanders who reported drinking any alcoholic beverage in the last 30 days, 45% said “no,” while 55% said “yes,” meaning that nearly half of respondents do not regularly drink; they are abstainers or very infrequent drinkers.

Alcohol regulation impacts the variety of available products, their price, the places where they may be sold, and what promotion is allowed or restricted.

Looking at the categories of agencies responsible for regulating alcohol across the nation, 25 place alcohol regulation with an agency responsible for finance, commerce, or revenue. The next largest category is the states that have a standalone alcohol regulatory agency, of which there are 15. Six states house alcohol regulation under a public safety or consumer protection agency. According to the presenters, the remaining 5 are in other agencies, either licensing, regulation, or the state Attorney General.

The presenters characterized five essential components of alcohol regulation enforcement: (1) background checks and inspections; (2) trade practice violations; (3) zoning, permitting, and planning authority; (4) criminal and nuisance in and around the licensed premises; and (5) compliance checks, source investigations, overservice, and operations. Mr. Insley added that there is overlap in these areas between federal, state, and local authority. Even if much of the enforcement authority is on the state level, there is significant local involvement in zoning and related land use decisions. Local authority may also vary depending on the level of local home rule.

State-level enforcement is also critical for ensuring a level economic playing field, and for providing consistency. The federal regulator, the Alcohol and Tobacco Tax and Trade Bureau of the U.S. Department of the Treasury only exercises regulatory authority over the top two tiers, manufacturing and distribution. On the retail level, state authority is needed to enforce trade practice violations.

Efficient enforcement and compliance requires resources dedicated to enforcement; coordination between federal, state, and local agencies; and data collection and evaluation to inform regulatory practices. Data-driven systems allow for targeting resources to at-risk areas.

There are trends that are having an impact on alcohol regulation across the nation. Small, local producers seek to enter the marketplace and expand their businesses; consumers have become accustomed to convenience shopping, including e-commerce, one-stop shopping, and emerging technologies. Finally, governmental budget systems based on older configurations of the alcohol industry have not kept pace with changes in the marketplace, resulting in challenges for regulators.

In order to meet these challenges, those considering alcohol regulatory policy, including this task force, should keep in mind several things. Alcohol is a unique commodity, and gives rise to unique risks and concerns. The Twenty-first Amendment, which repealed Prohibition, placed in the states the power to create individual systems based on what is best for their own jurisdictions. Data and science are essential in informing and enforcing alcohol regulations. A successful system balances public health with commercial interests. And adequate funding is needed for state and local jurisdictions to enforce their regulations effectively.

One of the legislative members asked how many states have elected regulators. Only Maryland and Massachusetts appear to do so; in the latter state, alcohol is regulated by the State Treasurer. The same member asked how many combine the regulation of alcohol with revenue collection. At least 25, though in control systems the revenue collection is of both taxes and price markups that help fund the state budget. There are other states that also have revenue generation as part of their control system. A follow-up question was how many states have the chief law enforcement officer as the primary alcohol regulator. Mr. Insley answered that in some states there is a bifurcated system under which the state police handle criminal enforcement while a state board handles administrative enforcement. Both Pennsylvania and Iowa follow this model. Mr. Schmidt added that there needs to be coordination among local, state, and federal enforcement authorities. Other police officers may have the authority to enter premises. Generally there is cooperation among levels of government.

Another legislator member asked about e-commerce, and noted that there seem to be a number of court challenges involving it. Mr. Insley stated that there are Commerce Clause challenges being filed, principally on the basis of discrimination against out-of-state businesses, such as direct shipment. There are also challenges to advertising restrictions based on the First Amendment.

An industry member asked about concerns relating to innovation and technology changes in the industry. The regulatory laws as originally conceived could not have anticipated some of these. He asked whether technology makes enforcement more difficult, and what the presenters had seen in other states reacting to the evolving technology. Mr. Schmidt responded that some things are done to help the consumer, and to help industry act more responsibly. But in the end the regulator and the industry need to look at the balance of interests, and reach out to those who know the technology well.

Another legislative member agreed that one should strike a balance between public health and safety, and the orderly distribution and sale of alcohol. He would like the task force to expand on the public health aspect. He asked to confirm that a total of 2 states out of 50 have an elected official with the responsibility of regulating alcohol. Mr. Schmidt responded that there are 2 of which he is aware. Typically, alcohol regulators are appointed directly by governors. Two are in the offices of the state attorney general. In other states, the regulator is further down within the executive branch. The member asked if either witness knew of a situation where the chief regulator actively solicited campaign contributions from the regulated industry. Mr. Schmidt said they were not familiar with one. Their role as witnesses that day was to give the task force the landscape of what regulators do. They expect regulators to follow their ethical obligations. All regulators interact with their industries, and should also interact with public health and safety sectors.

A public health member asked if they were aware of data, or had views, as to which state alcohol regulation fits best, or is more effective in various agencies. Mr. Schmidt responded that he was not aware of any data. Alcohol regulation could fit in multiple parts of several organizations and departments in government. It depends on the responsibilities of the agency. Licensing, market density, and so forth would be an important part of the research, and their association has not conducted it. Their view is that states have the responsibility; the association does not have the view that one or another is better.

The member asked what promising trends there might be, in light of data showing harms and impacts in and around licensed premises. This needs more research, and needs to measure outlet density and categorization. A lot of regulation is about place. That data would be helpful.

Mr. Insley noted that one trend among the states and the federal authorities, is more aggressively addressing trade practice violations, such as in tied house violations. Also, the tools provided to law enforcement in dealing with festivals and retail locations.

The task force continued discussing the use and utility of better data in regulating alcohol and updating alcohol policy.

One member asked a follow up question on the 25 jurisdictions that combine alcohol licensing with revenue collection. He asked if a majority of them keep tax collection and regulation together. Mr. Schmidt answered that among the 25, they may have multiple state agencies involved. He would have to look further into their specific structures to see how they may split various functions. The member asked if there were any data as to whether it was more efficient to keep those two functions together. The answer was not that the witnesses were aware of. The same member asked whether they had looked at other states concerning any trend on the acceptance of contributions from the regulated community. They had not, but perhaps another entity such as the National Conference of State Legislatures might have studied this topic.

The chair then asked if they had any guidance on trends in the public health area. Mr. Schmidt answered that alcohol has been a problem for our culture for a long time. There is increasing scientific evidence that death from alcohol is on the rise in certain demographic groups.

Drunk driving and high-risk college drinking has been a concern. Most attention is now focusing on alcohol abuse among older Americans. There is data from the National Association of Alcohol Abuse that demonstrates increasing emergency room visits by older Americans, a relationship between alcohol and suicide, and other depressed mental states. There are also relationships between alcohol and certain cancers.

After the discussion with the representatives of the National Alcohol Beverage Control Association wrapped up, the task force turned to a presentation on regulatory best practices by Ms. Pamela Erickson of the Campaign for a Healthy Alcohol Marketplace. Ms. Erickson is a former Executive Director of the Oregon Liquor Control Commission.

This presentation reiterated the history of tied houses before Prohibition, the experience of the country with Prohibition, and the advent of *Toward Liquor Control*.

She went on to describe the structure and purpose of the three-tier system, and the distinction between lighter regulation of beer as opposed to distilled spirits. She described both the control system and the licensing system, and the interplay between federal and state regulatory systems.

According to the presentation, most of the research on alcohol policy has been on the efficacy of a single policy, though most states have multiple policies that interact. One of the studies that has tried to address multiple alcohol policies is a 2014 study by Dr. Timothy Naimi, “A New Scale of the U.S. Alcohol Policy Environment and Its Relationship to Binge Drinking.” A copy of the study is attached to this report as **Appendix 4**. According to the study, Maryland is in the second-lowest of the five categories described in the study. The study’s ranking is based on what it characterizes as strong alcohol policies. One of the major factors included is a “dram shop law”, which Maryland has not adopted.

According to a 2017 study, the public is very supportive of alcohol policies, including a strong priority for public health and safety. She has found in working with a number of states that regulatory policy discussions tend to be more about economics and not public safety.

Across the nation, “big box” stores promote one stop shopping, but consumers typically divide their shopping trips three ways – to a large “big box” store, to a smaller shop such as a natural food store, and to a standard grocery store.

In addition, all of the major national chains want to sell alcohol. It is a large margin product as opposed to their more typical 1-2% margins on other goods. But alcohol, unlike regular goods, needs more licensing and enforcement. And large chain stores may also be less responsive to local communities and their concerns than a local operator.

There have been consolidations in the growing craft production area. In Oregon, there was a great deal of development of craft brewers and other manufacturers. They sought and obtained special privileges for manufacturing and self-distribution. But when they grew, the larger operators

took notice, and took advantage by buying up the small producers. In a similar way, brew-pub restaurants in Oregon were bought up by large brewers.

Ms. Erickson's recommendations included recognizing the value of the regulatory system that the state has now: supplying proper resources for enforcement, and realizing that public support is in place for strong alcohol regulation. She suggested going slowly in making wholesale changes to the licensing system, though simplifying the license structure may have overall benefits in the long run. Successful alcohol policy will reduce the harm that alcohol can cause, but allow businesses to operate profitably.

A legislative member noted that public health and safety is very important to the residents, but economics have driven the regulation of alcohol. He asked if there were any reason that the state would not have the alcohol regulating authority separated from the revenue authority. Ms. Erickson responded that she would probably put it in public health. She did like the idea of independence. The alcohol regulators work closely with the industry, and they have to do so. Most licensees are great people, and want to do the right thing. They find it difficult when other licensees are violating the law and undercutting them.

Dr. Jernigan offered to provide the study by Dr. Naimi to the task force as published in the 2014 *Journal of Preventive Medicine*. As noted above, the study and its appendices are attached to this report as Appendix 4.

The chair asked the task force members to email any recommendations to him and the task force staff by Monday, December 3, in anticipation of a full-day meeting on December 17.

One of the public health members listed several possible proposals to move Maryland in a positive direction on the Naimi study analysis, including providing civil social host liability, collecting "place of last drink" data, and improving the quality and quantity of compliance checks.

After the end of the second presentation and related discussion, the task force turned to a roundtable discussion. In order to provide a framework for the final meeting of the task force, staff presented a range of options based on testimony that had been received. The options discussed included changes to the field enforcement function, State and local alcohol policies, enforcement mechanisms, and the structure of State alcohol regulation as it relates to safety and public health.

In testimony and comments of the task force, it was acknowledged that the Field Enforcement Division does a great job in regulating alcohol, tobacco, and related products, and motor fuel. In alcohol, it is the regulator for the top two tiers – manufacturing and distribution – and it cooperates with local licensing jurisdictions in enforcing retail laws. Options for changes include providing the division with more resources, in part because of the proliferation of new outlets, and in part because some of its enforcement efforts are dependent on the good will of the industry, which may change as the industry changes. Another option is adding the role of acting as a clearinghouse for local enforcement information and efforts. In addition, the division could be directed to have a greater role in education of the public – especially the young and at-risk populations, in conjunction with localities and with industry. Finally, the task force might consider

establishing an explicit public health component in the division's charge to oversee production, distribution, and in enforcement on the State and local levels, and to its roles as a clearinghouse, in expanded education, and in enforcement coordination with local licensing jurisdictions, as described below.

In the area of public health, testimony and task force member comments suggested that more State resources may be needed to provide education and outreach about alcohol use and concerns from a public health perspective, regardless of any change in the division or in the structure of State alcohol regulation. This appears not to be limited to some jurisdictions, but a need across the State, to provide information and outreach to minors, to young adults, and to other vulnerable populations. In addition, the suggestion was made that there should be a State-level clearinghouse for public health information and outreach that the State regulator and local licensing jurisdictions can use to promote the role of public health in alcohol regulation and enforcement in the State.

In the area of enforcement, State law has recently been expanded in the area of social host liability for underage drinking, but there is room for further changes. The task force might consider making recommendations for increased cooperation between and among local licensing jurisdictions and the Field Enforcement Division. Other recommendations might include finding funds other than licensing fees to support local enforcement and outreach activities; increasing mechanisms for cooperation between and among local licensing jurisdictions and the Field Enforcement Unit; increasing the penalties for social host liability; altering the enforcement mechanisms for retailers and retail employees serving underage or intoxicated individuals; and encouraging the wider use and sharing of information on identifying the "provider of last drink" when a violation occurs.

The principal question presented to the task force was the structure of State alcohol regulation. There appeared to be no interest in recommending changing Maryland to be a control jurisdiction from its current status as a State-level licensing jurisdiction with a majority of local licensing jurisdictions. However, the task force did hear that the principal alcohol regulator in the State is the chief revenue officer of the State, an elected official, who oversees the Field Enforcement Division. According to information received, most states separate the alcohol regulatory function from the election process, and many separate alcohol regulation from the revenue collection function. The task force might consider whether the State's field enforcement function – State licensing and regulation – should be separated from the Office of the Comptroller. If the division were separated, the task force should consider whether it should be placed within another existing State agency, or should be constituted as its own executive branch unit, under either an appointed officer or an appointed board.

Finally, the task force might consider whether its work should in some form be continued over another year.

Members of the task force were reminded to send in any suggestions for recommendations to staff by December 3, in order to allow time to prepare them for the task force meeting anticipated on December 17. However, based on other considerations, the final meeting was rescheduled to January 7, 2019.

January 7, 2019

I. Morning Session – Review of Proposals

The task force conducted its final meeting on January 7, 2019 in two sessions. During the morning session, the task force reviewed a consolidated list of proposed recommendations that had been submitted by the chair, public health members, and alcohol industry members. The proposed list is attached as **Appendix 2**. After a break, the members returned in the afternoon to consider each item for debate and voting.

The chair introduced the process to be used for the day's proceedings. The chair stated that the process was to be fair, deliberative, and to the point. He explained that the task force was not set up as a regular legislative committee system that had 90 days to look over and consider proposals, but that whatever the task force approved would be submitted to the General Assembly for its consideration.

The task force's process would be in two parts. In the morning, the task force would go through the proposals that were submitted and discuss them so that they would be understood by all. The proposers would explain the proposals. The proposals were numbered for discussion. There were 39 of them, though some were duplicative. The task force would go through all of them in the morning and then break for a working lunch. In the afternoon, the task force would have the opportunity to have a discussion on each proposal, attempting to balance clarity and brevity. All of the proposals had already been discussed or presented in earlier task force proceedings, and the morning session was also an opportunity to discuss and understand each item.

The chair noted that earlier that morning he had received a letter from the Office of the Comptroller. A copy was provided to each member, and all were encouraged to read it during the lunch break.

The chair then addressed his seven proposals. Going through the prior meetings, he developed seven proposals that would make an impact. He noted that this is not a perfect world and not a perfect task force. He was most interested and concerned with the health impact of alcohol regulation in the State.

His first proposal, **Recommendation #1**, was to increase the number of positions in the Field Enforcement Division in order to keep up with the increase in licensing of alcohol outlets in the State. Division Director Jeffrey Kelly's testimony made clear that the number of positions has not done so.

The chair's **Recommendation #2** would recommend implementing "place of last drink" tracking, under which law enforcement would track establishments who last served individuals stopped for alcohol influence violations and then visit those establishments to discuss the matter with the license holder. Members asked who would conduct the contact with the establishment and who would share incident data. Members suggested that local licensing boards be involved, and that hospital emergency rooms may also have critical data to share. They also shared concerns about handling data in a fair manner, so as not to appear to be targeting particular establishments. The chair suggested that the proposal could be amended to address these needs as well as flexibility in enforcement. The proposal would end up in front of the legislature, which would be taking testimony from several sources in order to improve and fine-tune any such recommendation. Additional comments suggested that any health data would need to be shared in aggregate form due to federal privacy laws.

The chair's **Recommendation #3** would alter the current law on social host liability. He suggested that possible incarceration should be available for furnishing alcohol to underage drinkers at house parties. The public health members noted that the issue of social host liability was also in their recommendations but going in a different direction – to authorize the use of a civil citation system rather than criminal prosecution. Because criminal actions are drawn out and uncertain, a civil citation system would provide better deterrence due to swiftness of action and greater certainty of outcome, according to materials the public health members had provided. The members suggested dealing separately with service violations in private homes and on college campuses.

Under **Recommendation #4**, the chair proposed the creation of a new agency for licensing alcohol on the State level that would regulate and enforce based on public health considerations. The tax collection function should not be transferred to this new agency but should remain with the Office of the Comptroller along with other State revenue collection activities. In addition to administering State licenses, the new agency would act as a clearinghouse for alcohol enforcement, and health data, labelling, and education. It would address target populations for outreach about the consumption of alcoholic beverages. The new agency would help the State do better than we are doing now. The chair noted that the agency would be able to share information and provide outreach on the consequences of parent/adult service and furnishing of alcohol to underage drinkers. It would provide much needed coordination among local and State liquor and law enforcement entities.

One of the public health members noted that in working with local jurisdictions, this would be very helpful. Currently, much of this outreach is done through word of mouth. It would be helpful to provide greater technical assistance and advice for local jurisdictions.

An industry member asked if anyone had done a fiscal estimate of creating a new agency. The chair responded that it would have to be based on what the legislature does. Establishing a completely new agency with new personnel would be expensive. But if we take the existing personnel, add positions to address understaffing as in Recommendation #1, and keep the agency in its current physical location, the change would mostly be a matter of changing the organizational chart. The fiscal note would depend on what the legislature ultimately decides to adopt.

The chair presented **Recommendation #5** as an ethics measure, intended to remove the appearance of undue influence over alcohol regulators. It would prohibit the alcohol regulator, whether the current official or the personnel of a new agency, from accepting donations from entities or individuals associated with the alcohol, tobacco, or motor fuel industry. For any regulator who is regulating one of these industries and enforcing the law, such a donation may give rise to a bad appearance, even absent any improper intent. One member asked if this would apply to others who are not currently regulated, but who might seek to become regulated, such as grocery chains that hope to be allowed to sell alcohol. Another member wondered if this would apply to an individual in an appointed position, if the Governor is the one who would make the appointment. A member noted that a similar prohibition applies now in the gaming industry, where the industry is prohibited from making contributions. It might also be proper to extend the prohibition to legislators, since they act on legislation that enables the issuance of alcoholic beverages licenses.

The chair responded that it is harder to pinpoint a legislator, since there are so many of them involved in the passage of a bill that would affect alcohol regulation, even if a prominent legislator might gather contributions. Another member was concerned that even if Recommendation #4 were adopted, the Comptroller would still be in charge of tax collection and wondered if this would remain a potential avenue for influence. However, taxation as a function is not as susceptible to interpretation as the licensing laws and their enforcement, so the danger of undue influence in that realm is not as great.

A member suggested that any such ethics provision should apply on the local level as well as the State level.

The chair proceeded to describe **Recommendation #6**, which would recommend larger and more prominent labeling of alcohol content for any beverage exceeding 4.5% alcohol by volume. This would help to provide useful information to those who may not now be aware that some beers in particular are being brewed with twice or more the concentration of alcohol found in mass-market beverages. One public health member asked if this were preempted by the federal government, since labels must be approved by it. The chair responded that other states do require this sort of labeling. One of the industry members added that states do regulate labeling, and that North Carolina has such a provision. It is not something that would be a problem for the industry as a whole. It might be an issue for the smaller brewers, since federal labeling requirements allow no more than 0.3% variation in content from that shown on the label. Also, the consumer might need to be educated as to what the percentage shown on the label may mean when a full serving is consumed. One of the public health members asked if this should also be applied to advertising in the State. The chair responded that while he might be tempted to agree, it might be harder for the regulator to enforce.

The last of the chair's proposals was **Recommendation #7**. It would recommend curtailing any further expansion of "one-stop shopping" for alcohol along with groceries and other retail goods. One industry member noted that craft producers frequently have branded goods, such as shirts and hats, and asked if this policy would prohibit that sort of marketing material being sold in tasting rooms. The chair said that was not his intent; rather, he was more concerned with the potential expansion of alcohol sales into full retail establishments. One of the legislator members

stated that current law prohibits sales in those businesses but does not stop lobbying for an expansion into stores in the future. The grocery stores that have alcoholic beverages licenses have been grandfathered for many years, and no new licenses are available for those sorts of premises. The chair added that this was intended as a recommended policy statement from the task force not a legislative proposal.

The task force then turned to the suite of proposals from public health members Dr. Raimee Eck and Dr. David Jernigan. They first presented statewide general recommendations. Their first proposal, **Recommendation #8**, was to require a public health impact statement for all changes to the State's liquor laws. Existing law does not require such an assessment, which would address both positive and negative impacts. One member asked who would do this, and who would have the expertise. An agency member asked if this would be something along the lines of a fiscal and policy note that the Department of Legislative Services (DLS) currently prepares for all bills each session. Dr. Eck agreed that it might be and noted that California currently has a health impact agency responsible for them at the state level. The agency member elaborated on the fiscal and policy note process and noted that it would be difficult for the Maryland Department of Health (MDH) to prepare such an impact assessment because there is no agency that specifically deals with alcohol impacts. It was suggested that the new agency proposed in Recommendation #4 might be an appropriate agency to prepare such an assessment, at least for more significant legislation.

Dr. Eck added that in Montgomery County, the National Alcohol Beverage Control Association had provided a grant to model increased outlet density in the county. If funding for such a study were not available, it might not be possible to pass proposed legislation without the assessment. Dr. Jernigan added that although alcohol has serious public health considerations, public health is rarely if ever mentioned during alcoholic beverages bill hearings.

The next proposal was **Recommendation #9**, the adoption of a civil social host law, which was characterized as being in line with recommended best practices.

In addition to social host liability, **Recommendation #10** was the proposal for a statewide dram shop law, which would apply to commercial establishments. According to the proponents, only seven states do not have a dram shop law on the books. A member asked whether this usually applies to all establishments that sell alcohol to an intoxicated person or only to the last place of sale. The response was that they generally apply only to the last place of service. The local board member noted that the boards have sometimes had a contentious relationship with the trial bar, and that this would bring up a significant liability fight.

The last of the general proposals, **Recommendation #11**, was to propose adequate staffing and funding minimums for local liquor board administrative, education, and enforcement activities. Because of differences among local jurisdictions and their funding, priorities among the jurisdictions differ widely, particularly in the area of alcohol education.

The public health members then turned to proposals involving Alcohol Awareness programs. **Recommendation #12** would require mandatory training for all license holders, managers, and servers. Similarly, **Recommendation #13** would require that there be at least

one employee certified under an Alcohol Awareness Program on site whenever alcohol is served, without exception. Some jurisdictions have exceptions that allow alcohol to be served without trained personnel on site.

An industry member asked if this envisioned certification for each server. Currently, some servers move from one establishment to another, taking their certification with them. Dr. Eck responded that with statewide training and a database, servers could move easily to a new establishment and take their certification with them.

A related proposal, **Recommendation #14**, would remove the exception that some temporary licensees have from the requirement to have certified personnel on site. The local board member advised that most temporary licenses involve fundraising by nonprofits and entities that already have certified personnel available.

Another member asked about the extensiveness of the training. An industry member stated that the issue may not be how extensive the training is but whether it is available. It may be available only once a quarter and not in the proximity of the area where the temporary license is sought.

Recommendation #15 would require reporting of those being certified to local jurisdictions. While the reporting is required under current law, it does not always occur.

The public health members then presented three data collection recommendations. The first, **Recommendation #16**, would mandate collection of “place of last drink” data for use by law enforcement throughout the State. Similarly, **Recommendation #17** would require the maintenance of a statewide database of individuals trained in an Alcohol Awareness program. And finally, **Recommendation #18** would require the maintaining of an accurate database of licenses, updated every 30 days. According to the proponents, the current statewide database is too often out of date and incomplete.

Enforcement activities were the subject of the next several proposals from public health members. Under **Recommendation #19**, at least 25% of the budget of a local liquor board would have to be dedicated to enforcement activities such as inspections, compliance checks, and similar operations.

Recommendation #20 would require alcohol compliance checks to be completed at least once each year for each local retail license. The members discussed the distinction between compliance checks and regular inspection and noted that some compliance activities may be limited by available funds, especially in the smaller jurisdictions. There are jurisdictions that combine several administrative checks, such as Montgomery County, which combines civil, criminal, and compliance checks. Spot checks, on the other hand, should be focused on establishments that have reported compliance issues.

In line with that proposal was **Recommendation #21**, which would recommend a minimum ratio of inspectors to licensed retail outlets in a jurisdiction.

Recommendation #22 would adopt a compliance program to allow suspension of a license for noncompliance with its license type, such as food sale ratios or floor space limitations.

In order to deal with grave situations, the public health **Recommendation #23** would add a statewide provision to allow emergency suspension of a license in connection with the occurrence of a death or serious injury. Members raised a concern about the availability of due process, and noted that in many jurisdictions, local boards are already able and willing to deal with these situations on a rapid basis.

Recommendation #24 would require inspections to be conducted based on data such as the licensee's violation history, emergency calls, and other incident-related information to ensure that enforcement resources are allocated where they may have the most positive impact. On a related matter, **Recommendation #25** would require mandated reporting between local law enforcement and local liquor boards.

In order to improve the quality of inspections, **Recommendation #26** would require the development of mandatory training for local liquor inspectors based on best practices.

Finally, **Recommendation #27** would have the powers of local liquor inspectors expanded to include the immediate surroundings of licensed premises.

In the area of licensing and administrative penalties, the public health members proposed **Recommendation #28** to require the State licensing agency to report the issuance of each license and permit in a locality to the local jurisdiction within 10 days.

Recommendation #29 would expand the lookback period for enhancing administrative penalties statewide to be at least four years. Currently, the lookback periods vary across the local jurisdictions.

The public health members proposed in **Recommendation #30** that there be graduated sanctions for violations involving sales to minors and sales to intoxicated persons. Some local jurisdictions do have graduated penalties, but most do not.

The final two proposals from the public health members dealt with overall alcohol regulatory authority. **Recommendation #31** was to keep the alcohol taxation functions in the Office of the Comptroller, rather than shift them elsewhere, while **Recommendation #32** was to move the licensing and enforcement of alcohol to the Department of State Police (DSP). DSP already maintains licensing and registration in several areas of firearms, some law-related professionals, and K-9 dogs. Dr. Eck noted that the chair's Recommendation #4 would also move these functions, but their idea was to minimize costs by placing the alcohol regulatory function in an existing agency. The chair suggested that members should discuss this recommendation over the lunch break, especially as the Department of State Police member voiced a number of objections to this proposal.

One of the legislator members supported the notion of moving the alcohol regulatory function out of its current location because of a perceived bias in enforcing only certain laws and not others. Another member countered that there was no testimony that the Office of the Comptroller was doing a poor job or was cherry-picking regulations to enforce, rather, that they had heard only good things about the practice of the Field Enforcement Division. Another legislator member noted that this recommendation might be moot if the chair's transfer recommendation were adopted. The member had no concerns about the division's operations, only where it was administratively placed.

Mr. Hugh Sisson then presented several proposals on the part of craft manufacturers. **Recommendation #33** would affirm the value of maintaining Maryland's status as a licensing state rather than a control state. The existing three-tier system has been able to deal with changes occurring in the marketplace. While the current system may be flawed, it does not necessitate a change to a control-type regulatory system.

The next **Recommendation, #34**, was to affirm that there are net economic and community benefits to alcoholic beverage manufacturing in the State, and that the placement of manufacturing facilities has not presented an inherent public health issue.

The cooperation between public agencies and manufacturers was the subject of **Recommendation #35**. The proposal suggested encouraging and formalizing ties in order to promote collaboration in policy and enforcement.

Recommendation #36 was to consider restricting alcoholic beverages licensees and entities that they have an ownership interest in from being able to make political contributions to State or local alcohol regulators.

Under **Recommendation #37**, the task force would identify in priority order the public health risks and the policy and regulatory options to address them.

As **Recommendation #38**, the industry members suggested that an estimated fiscal impact of relocating any State regulatory functions of the alcohol industry be completed before making a recommendation for such a relocation.

Finally, in **Recommendation #39**, the industry proposed that all alcohol enforcement functions be placed in a single State agency, for uniformity and consistency of enforcement of licensing and enforcement, while keeping land use decisions under local government authority.

At the end of the presentation of these recommendations, the chair asked the task force to review and discuss all these materials before the meeting resumed in the afternoon.

II. Afternoon Session – Deliberation and Decision Making

The task force returned in the afternoon to deliberate on each proposal. After some procedural discussion, it was decided to go through each item on the list, debate and consider amendments to each item, and take a vote on each item.

The first seven recommendations were presented to the task force by the chair. **Recommendation #1** was a recommendation to increase the number of authorized positions in the Field Enforcement Division. The chair noted that this would be a recommendation for funding rather than a specific mandated appropriation. It is consistent with the marked increase in the number of licensed outlets as manufacturers open tasting rooms in the State. It was noted that this is a matter of making recommendations for action to the legislature, and that it will be up to individual legislators to request bills to implement the recommendations.

There was concern raised that there was no specific information available on the fiscal impact of this recommendation. In response, there is no specific recommended number of positions, so any fiscal note on the recommendation would be premature. Any specific policy in legislation would receive full consideration, including a fiscal note and the opportunity for input from legislators, staff, the Governor, the Comptroller, and others.

The recommendation was adopted.

The chair's **Recommendation #2** was to consider implementation of tracking the “place of last drink.” Having data about potential problem establishments shared between law enforcement and local licensing boards could assist the boards in reaching out to the establishments and determine how best to remedy service violations. Public health members commented that including hospital emergency departments in the information sharing could help as well, in a similar manner to the reporting of domestic abuse by medical personnel. Industry members suggested that referring the data to local boards for “appropriate action” would provide flexibility in their interactions with particular establishments. After accepting these amendments to the original proposal, the task force adopted this recommendation.

Recommendation #3 was to advocate for consideration of social-host liability. The chair found that the current provisions on social host liability for private parties, a misdemeanor with the possibility of a fine but not incarceration, might not sufficiently deter some parents from encouraging or allowing illegal behavior on the part of young adults conducting house parties. The task force then noted that another proposal from the public health members, **Recommendation #9**, would instead have the legislature adopt a social host law through a civil citation system, effectively decriminalizing social host liability in some instances. The public health members noted that testimony showed that in some jurisdictions, social host liability being enforced through a civil citation system rather than through the criminal justice system has been shown to be effective in decreasing the incidence of alcohol abuse at social events. After discussion, the task force agreed to amend this recommendation to be a hybrid proposal under which the legislature should consider both types of social host liability by making incarceration an option for a violation

involving house parties, and by enacting a statewide civil citation system for social host liability generally. The amended recommendation was adopted.

The task force then discussed **Recommendation #4**, to establish a new separate agency that would regulate and enforce alcohol, tobacco, and motor fuel laws of the State and related health considerations. The new agency would also be charged with educating the public and would function as an information clearinghouse for public health, law enforcement, and local licensing boards. Some members felt that the proposal was vague and had too little information on which to base a potential fiscal impact.

A legislator member stated that the lack of a specific fiscal assessment should not deter the task force from taking up the recommendation. Any legislative proposal would be fully vetted from a policy and fiscal perspective. In the legislator's opinion, the current personnel in the Field Enforcement Division could be shifted to a new agency administratively but not necessarily to a new physical location. The new agency could be essentially co-located with the existing Office of the Comptroller and could continue to interact with the Comptroller's personnel as needed for taxation and enforcement purposes. The legislator suggested that this is an opportunity to do what Maryland has already done with gaming and with medical marijuana, placing the responsibility for licensing and enforcement with an independent commission. According to received testimony, 47 other states do not have the alcohol regulatory entity directly under an elected official. The proposal would not place the division under the Attorney General, who would have the same issue. This is about transparency and good government. This legislator does not think that the State should have an elected official in a position to solicit contributions from the regulated community. At one time, it may have been easy to handle alcohol regulation together with tax collection, but that is no longer the case. The legislator stated that this is one of the most important recommendations for the task force to consider.

Public health members stated that this is an issue of leadership. Maryland now has an enforcement agency that does a good job but underdoes it. The agency primarily focuses on revenue collection, and alcohol regulation is a specialized area. On the issue of reporting, these members stated that only four licensing jurisdictions are currently reporting underage sales to the Office of the Comptroller. If alcohol regulation was moved under an independent agency, that agency could work for better coordination between the State and local jurisdictions.

An agency member asked for clarification, wondering if the intent was to create a quasi-independent unit such as the Public Service Commission that would enforce manufacturing and distribution of alcoholic beverages, not just retail. The chair answered that this was his intent. The agency member also asked whether this was more of a vision statement going forward as regard the health impact of alcohol regulation. The chair reiterated that we have seen that the younger populations, particularly millennials, have been showing higher rates of liver failure due to alcohol abuse. There has been more and more availability of alcohol in the State, as outlets have proliferated, and the level of State oversight has not kept pace. It is not a failure of the State agencies but reflects what can be done when the current resources and structure are not enough. There are segments of society where there are problems with alcohol that should be addressed

through education and understanding – youths, millennials, and with certain micro-populations, among older residents.

The chair emphasized that he is not casting aspersions on any current official but believes that the State should go out and make more of an impact on the community. It is also the State's responsibility to take the regulator out from the perception of undue influence in the regulated community. If the proposal passes, it is a modernization, addressing needs and situations that have changed over the years.

An agency member asked whether the intention was that the expenses of the transfer should come from special funds or from the general fund. The chair answered that he felt this should be a general fund obligation. Another agency member asked what about the current situation is broken that this would address other than the perception of an elected official receiving campaign contributions, which is addressed by **Recommendation #5**. The chair answered that what he perceives is a lack of consideration of public health in alcohol regulation. He has observed what has been done in other states and localities. During these proceedings, there was little discussion about public health on the State level here in Maryland.

One of the public health members added that it depends on how one defines "broken." It would be helpful to have fewer people die on the road or develop liver cancer, by having one agency tie all these public policy considerations together on the subject of alcohol. It would help avoid the situation of dealing with a 16-year-old drunk in the emergency room or dealing with several children dead as a result of drunk driving.

The agency member responded that there is always something that can be improved. Rather than take enforcement away, it might be better to increase the information given to the Comptroller.

Members noted that they would still need to address fatalities, and still add a health consideration, in order to reach out and fix what our system is currently missing. While the taxation function should remain with the Comptroller, an independent board working with the Comptroller could handle alcohol regulatory policy and address public health considerations. Local boards work regularly with the Field Enforcement Division and have nothing but good things to say about it. They are individuals who do their best to look out for the health, safety, and welfare of the people of Maryland.

Another member agreed but stated that the task force needs to see what is coming in future years. The rate of change in the alcohol industry is increasing. This member supports the creation of an independent agency not because of the politics, but because it is a better structure to incorporate checks and balances. The current system does not have infrastructure for the future. The current system relies on the good behavior of the regulated community. It would be hard for the Field Enforcement Division to continue to do its work at the same level as more and more new entities come into the alcohol industry. The division is currently three to four months behind in gallonage reporting. The member believes in the need to bring together education and coordination with public health issues and to build up institutional knowledge about addictive substances. In

the future, we may see cannabis opened up for recreational use. The member asked what agency should regulate recreational cannabis use.

Another industry member noted that the discussion has only been about alcohol, and Recommendation #4 also included tobacco and motor fuel. The chair noted that he included them so that they would keep together the same people who regulate all three areas now as a matter of efficiency. The industry member stated that there is some coordination now between the enforcement and taxation functions as manufacturers and distributors must submit monthly reports along with their taxes. If the information is divided between the enforcement agency and the taxation agency, the State may lose part of the picture, and some matters may fall through the cracks.

Another of the industry members reiterated support for increasing staffing in the Field Enforcement Division as adopted under Recommendation #1. The member stated that as a staffing matter, increased resources may help, and that having reports continue to come into the same office helps coordination.

One of the legislator members asked if it is the job of the alcohol regulator to educate the public about the dangers of the regulated product. The member suggested that MDH should be doing this, and was puzzled about combining the regulating and education functions for alcohol. The chair responded that he did not believe that the department should have to take over this function, as it seems to be overwhelmed with other health situations.

Another legislator member noted that there are many dually related drug- and intoxication-related deaths. He is concerned with the funding and availability of enforcement. There should be more enforcement, not less. Each year the legislature deals with bills that ask for more rights to sell alcohol. By setting up a new agency like this, the task force would be following the model that the State has recently used for the regulation of gaming and medical marijuana. He sees this as a way to improve what the State is doing with alcohol policy.

The task force then voted to adopt **Recommendation #4**.

As initially proposed, **Recommendation #5** would have prohibited the alcohol regulator from accepting any donations from entities or individuals associated with the alcohol, tobacco, or motor fuel industries. The task force amended the recommendation to apply this prohibition to regulators and all elected officials, on both State and local levels.

The amended recommendation was adopted.

Recommendation #6 addressed the concern that some craft beer producers have begun to produce beverages with higher alcohol by volume than the common mass-produced beers on the market. The chair's concern was that individuals may not be aware of the strength of a particular drink, if they rely on the number of drinks as a personal standard for consumption. An industry member noted that the federal government must approve the labeling of each new product. After discussion, the task force agreed to amend the proposal to state that the labeling of any alcoholic

beverage sold in the state with an alcohol content greater than 4.5% should be prominently labeled, consistent with federal labeling requirements.

The task force adopted the amended recommendation.

The chair introduced **Recommendation #7** as a statement of policy to guard against the expansion of “one stop shopping” to include alcohol sales at grocery stores and similar establishments. An industry member asked for clarification as to whether this would have an impact on the sale of alcoholic beverages at farmers’ markets, which are important for craft beverage producers. The consumer member noted that in his conversations with members of the public, they seem more interested in convenience of shopping, and that this proposal could curtail that aim. Legislator members stated that the current State policy is to prohibit the expansion of alcohol sales into grocery stores, and that this recommendation merely reinforces current State law.

The task force adopted this recommendation as proposed.

The task force then turned its attention to the proposals made by public health members Dr. Eck and Dr. Jernigan.

Their first statewide general proposal, **Recommendation #8**, would have a public health impact statement prepared for all State liquor law changes. One of the agency members suggested, as a friendly amendment, that the statement should be prepared either by the independent alcohol agency proposed in Recommendation #4, or by DLS in conjunction with the preparation of fiscal and policy notes.

The proposal was adopted as amended.

Although **Recommendation #9** for a civil social host liability law was included in the earlier adopted Recommendation #3 as amended, the task force determined that this recommendation should also be put forth to the legislature as a standalone measure, not tied to any alteration of the existing criminal social host liability laws.

The task force agreed and adopted this proposal as a standalone recommendation.

In discussing **Recommendation #10**, to enact a statewide “dram shop” law that would apply to commercial establishments, the task force felt that it had not received enough information on the topic, and that the membership of the task force did not have sufficient knowledge to put this forward.

The task force rejected this recommendation.

The sponsors withdrew **Recommendation #11** that would have recommended staffing and resources for certain local liquor board activities.

The proponents noted that **Recommendation #12** would ensure all license holders, managers, and servers would be required to have alcohol awareness training, while current law allows an establishment to operate with only a single designated individual having the training, and not requiring that person to be on premises. The task force discussed whether this would be needed if **Recommendation #13** were adopted, which would require at least one employee with alcohol awareness training to be on site whenever alcohol is being served. The local liquor board member suggested that both are needed because a person in management who is never on site may still be responsible for service violations.

The task force adopted both of these recommendations.

The task force decided that **Recommendation #14**, which would remove the current exception from required alcohol awareness training for temporary licenses, was not appropriate, and rejected it.

The sponsors withdrew **Recommendations #15** and **#16** dealing with reporting of alcohol awareness training and mandating reporting of “place of last drink.”

The task force discussed the accuracy of the existing statewide alcohol license database and the need to maintain it better than has been the case. Instead of the 30-day update requirement initially proposed in **Recommendation #17**, the task force recommended that the State, through the new alcohol regulatory agency in Recommendation #4 if enacted, should maintain an accurate database that is updated at least yearly, with data older than three years to be archived rather than destroyed.

The task force adopted Recommendation #17 as amended.

In conjunction with the need to maintain an accurate database, the task force adopted **Recommendation #20** that would require each license to be inspected at least once each year, both for underage violations and violations relating to service to individuals who are already intoxicated.

Turning back to **Recommendation #19**, the task force discussed the varying needs for resources for local alcohol regulation. Recognizing that licensing jurisdictions vary in size and have different budget mechanisms and priorities, the task force took up the issue of resources for local alcohol regulation. The task force rejected the proposal to dedicate a set percentage of a local board’s budget to administrative enforcement actions and instead chose to recommend that the legislature develop guidelines for the minimum effective portion of a local board’s budget to be dedicated to administrative enforcement activities, such as inspections, compliance checks, operations, and trade practice violations.

The task force adopted this recommendation as amended.

Similarly, the task force amended **Recommendation #21** to provide that the legislature should develop guidelines for the minimum capacity of inspections for local boards to conduct based on the number and type of licensed outlets in the licensing jurisdiction.

The task force also adopted this recommendation as amended.

After discussion about whether local boards may already be able to suspend a license for being out of compliance with its license type, the sponsors withdrew **Recommendation #22**.

The task force rejected **Recommendation #23**, which would have added a statewide emergency license suspension provision in case of death or serious injury. The members were concerned about due process issues and noted that local boards are already quite responsive to such incidents.

Recommendation #24 was proposed to require that liquor inspections be based on a quantity of data to ensure that resources are allocated to the situations of greatest need. The task force amended the proposal to be a recommendation, rather than a requirement, for data-driven inspections, and adopted it as amended.

Similarly, the task force adopted **Recommendation #25** to recommend, rather than require, sharing of aggregate data on violations between local law enforcement and local boards.

On the topic of alcohol inspector training, the task force adopted **Recommendation #26** to recommend, rather than require, State-provided training for inspectors based on best practices. No such training is currently required in the State, and it is not yet readily available.

After discussion of the current authority of local alcohol inspectors to deal with violations occurring in the immediate surroundings of licensed premises, the sponsors withdrew **Recommendation #27** as unnecessary.

Under **Recommendation #28**, the issuer of State licenses and permits would be required to notify the local jurisdiction within 10 days after issuing a license or permit in the jurisdiction. There is currently no such requirement, and in some instances local jurisdictions have learned about an event with little or no warning. However, the Office of the Comptroller does attempt to notify localities in a timely manner.

The task force adopted the recommendation as proposed.

Recommendation #29 was to expand the lookback period for imposing enhanced administrative penalties statewide. The task force noted that the normal statute of limitations is three years; in addition, there is the issue of what would happen if a license for a particular premises were transferred to a new owner.

The task force rejected this recommendation.

After some discussion, the task force amended **Recommendation #30** to recommend the study of implementing graduated penalties for violations of the Sales to Minors and Sales to Intoxicated Persons statutes to establish the minimum effective penalties. Some, but not all, jurisdictions have graduated penalties in force.

The task force adopted the recommendation as amended.

Consistent with its consideration of Recommendation #4, the task force voted to adopt **Recommendation #31** to continue the oversight of taxation of alcoholic beverages in the Office of the Comptroller.

The sponsors withdrew **Recommendation #32**, which would have proposed moving licensing and enforcement of alcoholic beverages to the DSP as in conflict with the establishment of an independent alcohol regulatory agency under Recommendation #4, and in light of the opposition of DSP to such a transfer.

The task force then took up the first of the recommendations from the craft manufacturer members, **Recommendation #33**. Although the language of the recommendation contained substantial introductory text, the task force decided to adopt a simple policy statement that the State's current licensing system, which is largely a licensing system, should be continued, rather than converted to a control system. The current system has functioned appropriately and should not be changed.

The task force adopted this recommendation as amended.

The craft manufacturer members withdrew **Recommendations #34** through **#39**, which proposed broad policy statements dealing with market fairness and public health considerations.

The chair and legislator members then thanked the entire task force for their dedication and efforts and thanked all who came to participate in the proceedings, the public, the industry, and staff.

The results of the proceedings will be compiled and included in a report that will be sent to the members. In light of the late date, it would not be possible to provide an opportunity to respond directly to the report. Any response to recommendations that are introduced as legislation may be made during the 90-day legislative session.

The list of recommendations adopted by the task force is attached as Appendix 3.

Materials and Resources

In addition to this report and its appendices, materials and resources related to the task force are available on the website of the Department of Legislative Services at:

<http://dls.maryland.gov/policy-areas/tf-study-st-alchl-reg-enfrcmnt-sfty-and-pub-hlth>

The website contains background materials, meeting agendas, recordings of the task force meetings, and materials presented at the meetings.

Chapter 25

(House Bill 1316)

AN ACT concerning

Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health

FOR the purpose of establishing a Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health; providing for the chair and membership of the Task Force; providing for staff for the Task Force; requiring the Task Force to examine whether the State agency that now is assigned the tasks of regulating the State alcoholic beverages industry and enforcing State alcoholic beverages laws is the most appropriate agency to ensure the safety and welfare of the residents of Maryland, or whether those tasks should be assigned to another State agency or a new State agency; requiring the Task Force to review certain issues and make certain recommendations; requiring the Task Force to report to the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health.

Preamble

WHEREAS, Excessive alcohol consumption is the third leading cause of preventable death in the United States and is a risk factor leading to many health and societal problems; and

WHEREAS, Most people who drink excessively are not alcoholics or alcohol dependent; and

WHEREAS, The Centers for Disease Control and Prevention (CDC) reports that excessive alcohol use is responsible for approximately 88,000 deaths in the United States each year, including 1,321 deaths in Maryland, and \$5 billion in economic costs in Maryland; and

WHEREAS, The CDC reports that alcohol is the most commonly used and abused drug among youth in the United States, excessive drinking is responsible for 4,300 deaths among underage youth each year, people aged 12 to 20 years old drink 11% of all alcohol consumed in the United States, and underage drinkers consume more drinks per drinking occasion than adult drinkers; and

WHEREAS, The CDC estimates that 47% of all homicides and 23% of all suicides are attributable to alcohol use; and

WHEREAS, Alcohol is the leading drug among Maryland youth, with one in four Maryland high school students reporting drinking in the past month; and

WHEREAS, The CDC reports that excessive alcohol use is commonly involved in sexual assault; men consistently have higher rates of alcohol-related deaths and hospitalization than women; among drivers in fatal motor vehicle traffic crashes, men are almost twice as likely as women to have been intoxicated; and excessive alcohol consumption increases aggression and, as a result, can increase the risk of physical assaults on another person; and

WHEREAS, The Community Preventive Services Task Force found evidence of a positive association between outlet density and excessive alcohol consumption and related harms sufficient to recommend limiting alcohol outlet density through the use of regulatory authority as a means of reducing or controlling excessive alcohol consumption and related harms; and

WHEREAS, It is in the best interest of the public to review all alternatives to discover the entity best suited to ensure the safety and welfare of the residents of Maryland for purposes of regulating and enforcing laws concerning the distribution and sale of all alcohol products in the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That:

(a) There is a Task Force to Study Alcohol Regulation, Enforcement, Safety, and Public Health in the State.

(b) The Task Force shall consist of:

(1) one member of the public, to be appointed by the Governor; and

(2) the following members, all to be appointed by the President of the Senate and Speaker of the House of Delegates:

(i) one member of the public, who shall serve as chairperson;

(ii) the Secretary of Health, or the Secretary's designee;

(iii) the Secretary of State Police, or the Secretary's designee;

(iv) one member of the Maryland Licensed Beverage Association;

(v) one member representing alcohol manufacturers;

(vi) one member representing alcohol distributors;

(vii) one member representing alcohol retailers;

(viii) one member representing craft brewers;

(ix) one member representing wineries;

(x) one member representing local law enforcement agencies or the National Liquor Law Enforcement Association;

(xi) one member who is an emergency room doctor or a public health policy researcher with expertise in alcohol policy;

(xii) one member of the Maryland Public Health Association;

~~(xiii)~~ (xiii) one department of liquor control administrator;

~~(xiii)~~ (xiv) one member representing the medical community;

~~(xiv)~~ (xv) one member representing Mothers Against Drunk Driving or a neighborhood coalition working on alcohol policy issues at a local level;

~~(xv)~~ (xvi) one member representing the Washington Regional Alcohol Program or the Maryland Chapter of the National Council on Alcoholism and Drug Dependence;

~~(xvi)~~ (xvii) one member of the Senate of Maryland representing the majority party;

~~(xvii)~~ (xviii) one member of the Senate of Maryland representing the minority party;

~~(xviii)~~ (xix) one member of the House of Delegates representing the majority party; and

~~(xix)~~ (xx) one member of the House of Delegates representing the minority party.

(c) The Department of Legislative Services shall provide staff for the Task Force.

(d) (1) The Task Force shall examine whether the State agency that now is assigned the tasks of regulating the State alcoholic beverages industry and enforcing State alcoholic beverages laws is the most appropriate agency to ensure the safety and welfare of the residents of Maryland, or whether those tasks should be assigned to another State agency or to one created specifically to carry out those tasks.

(2) In conducting its examination under paragraph (1) of this subsection, the Task Force shall review:

- (i) Maryland alcohol laws in light of recent changes regarding alcohol production, distribution, and sale;
- (ii) the public health impact of alcohol in Maryland;
- (iii) the economic development and employment impact of alcohol in Maryland; and
- (iv) the enforcement at the State and local level of alcohol regulation and laws, including regulatory systems in other states, and the methods by which State and local enforcement agencies interact.

(3) The Task Force shall make recommendations regarding what additional policies should be implemented and the method for implementing the policies, with regard to:

- (i) alcohol laws in the State; and
- (ii) legislative proposals that would expand the availability of alcohol to the public.

(e) On or before December 1, 2018, the Task Force shall submit a report of its findings and recommendations to the General Assembly, in accordance with § 2–1246 of the State Government Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018. It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2019, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Enacted under Article II, § 17(b) of the Maryland Constitution, April 5, 2018.

Appendix 2
Maryland General Assembly
Task Force to Study State Alcohol Regulation,
Enforcement, Safety, and Public Health

D. Bruce Poole, Chair

Room 230, House Office Building, House Economic Matters Committee Room
Monday, January 7, 2019, 10:00 a.m.

Proposed Recommendations for Discussion

Bruce Poole (1-7)

1. Recommend increasing the positions in the Field Enforcement Division to keep pace with the increase in alcohol outlets.
2. Recommend legislation to implement “place of last drink” tracking, which would require law enforcement to track the establishments that have furnished the last drink to persons stopped for alcohol influence offenses and then visit those establishments and confer with the ownership or license holder.
3. Recommend legislation to amend the current prohibition on furnishing or allowing underage consumption – §§ 10-117 and 10-119 of the Criminal Law Article – to authorize possible incarceration for a violation that involves home parties.
4. Recommend establishing a new separate agency in charge of regulating and enforcing alcohol, tobacco, and motor fuel laws in Maryland and related public health considerations. Have that agency responsible for educating the public through resource sharing and an information clearinghouse about such things as recent increases in alcohol content for popular beer and other beverages, proper limits of drinking for adults and the adverse consequences for breaking the limits, parent or adult responsibility for serving alcohol to minors, *etc.* The clearinghouse could also be a mechanism for coordinating outreach and enforcement across jurisdictions and among enforcement agencies.
5. Recommend prohibiting that regulator from accepting any donations from entities or individuals associated with the alcohol, tobacco, or motor fuel industries.
6. Recommend larger and more conspicuous labeling of alcohol content for any alcoholic beverage sold in Maryland with an alcohol content in excess of 4.5%.
7. Recommend curtailing any further expansion of “one stop shopping” whereby alcohol can be purchased with groceries and other retail goods.

Dr. Eck and Dr. Jernigan (8-32)

Statewide General Recommendations

8. Require a public health impact statement for all liquor law changes.
9. Adopt a statewide civil social host law.
10. Adopt a statewide dram shop law (also known as commercial liability).
11. Recommend adequate staffing and funding minimums for liquor board administrative, education, and enforcement activities.

Alcohol Awareness Program Recommendations

12. Mandatory certification in an approved Alcohol Awareness Program for all license holders, managers, and servers.
 - *Current statewide law requires training for: “A holder of any retail alcoholic beverages license or an employee designated by the holder...” (§ 4-505. Alcohol awareness prog.)*
13. Mandate at least one employee who is certified in an Alcohol Awareness program to be on-site with no exceptions
 - *No statewide on-site requirement.*
 - *Some jurisdictions have carved out exceptions, but the statewide minimum should not include exceptions.*
14. Remove the exception for requiring Alcohol Awareness training for temporary licenses.
15. Enforce the requirement to report program trainees to local jurisdictions.
 - *Currently, there is a requirement that the Alcohol Awareness trainers send the names of trained individuals to local jurisdictions, but they usually do not (§ 4-505. Alcohol awareness program).*
 - *If a statewide database were to be created, it would void this requirement (see below).*

Data Collection Recommendations

16. Mandate place of last drink data collection for law enforcement throughout the State.
17. Maintain statewide database of individuals trained in an Alcohol Awareness program.
18. Maintain *accurate* statewide database of all licenses that is updated 30 days after renewal date of May 1 of each year. Old license lists should be maintained for three years and then archived but not destroyed.
 - *There is a statewide license database, but according to many jurisdictions it is not accurate or updated often.*

Recommendations Related to Enforcement Activities (including inspections and compliance)

19. Require that a minimum of 25% of a liquor board's budget (or a certain effective percentage) must be dedicated to administrative enforcement activities, such as inspections, compliance checks, overservice operations, trade practice violations, *etc.*
 - *All jurisdictions budget for routine inspections, however most do not routinely perform other effective enforcement activities, such as compliance checks or they rely on occasional grants leading to a lack of consistency in enforcement.*
20. Require alcohol compliance checks whereby each license is checked at least once a year.
 - *Look at tobacco programs for a model.*
21. Recommend a minimum ratio of inspectors per licensed outlet.
22. Adopt a compliance program to allow liquor boards to suspend a liquor license for being out of compliance with its license type.
 - [See Pennsylvania Liquor Control Board's Compliance Program for guidance.](#)
23. Add statewide emergency suspension provision granting liquor boards the power to immediately suspend a license when death or serious injury occurs.
 - *Virginia recently instituted this policy and would be willing to share their experience.*

24. Require liquor inspections to be based on data (licensee's violation history, EMS calls, 911/311 calls, etc.) to ensure resources are being allocated based on where the greatest need is instead of quantity (# of inspections per year).
 - *Generally jurisdictions inspect all outlets a minimum number of times a year regardless of past good/bad actions.*
25. Mandate reporting between local police and liquor boards.
 - *Currently, no requirement for reporting.*
26. Develop mandatory training for liquor inspectors based on best practices.
 - *Currently, no training required or available.*
27. Expand powers for liquor inspectors to the immediate surrounding area of the licensed premises.

Licensing/Administrative Penalty Recommendations

28. Require that State-issued licenses and permits must be reported to the local jurisdiction within 10 days of receipt of application.
 - *Currently, no requirement to alert local jurisdiction of pending licenses or permits.*
29. Expand the lookback period for enhancing administrative penalties to a minimum of four years (the same timeframe the Alcohol Awareness Program certificate is valid).
 - *Currently, no statewide requirements or guidelines.*
30. Graduated sanctions for Sales to Minors and Sales to Intoxicated Persons violations.
 - *Currently no statewide requirements or guidelines.*

Alcohol Regulatory Authority

31. Keep taxation in the Office of the Comptroller.

32. Move licensing and enforcement to the Maryland State Police.

- *Maryland State Police has a licensing division for registration and licensing of firearms and firearms dealers, licensing of certain law-related professionals, and registration of K-9 dogs, among other responsibilities.*

Maryland Craft Manufacturers (33-39)

Preface:

We believe the task force recommendations should further the interests of public health and fair markets for manufacturers, wholesalers and retailers. To those ends, the following points, made by witnesses throughout the task force's deliberations, provide a solid foundation for all Task Force recommendations:

- i. The testimony largely supported the effectiveness of the three-tier system in supporting fair markets. (multiple witnesses)
- ii. Traffic accidents, social hosts, and binge drinking are dominant public health problems that should be addressed. (Jernigan, Eck)
- iii. While the Comptroller's office has effectively addressed counterfeit products, tax evasion, and direct to consumer sales by a growing manufacturing sector, there is a lack of coordination regarding public health issues. (Kelly)
- iv. There is a great deal of variation in funding, resources, and expertise among county liquor boards that limits their effectiveness. (Durbin, Garcia)
- v. Because customers support them, because they add to local quality of life and economic welfare, witnesses and members of the commission supported the growth of small manufacturers (Milani, Eck, Best). These conclusions are supported by the experiences of manufacturers (Millikin).

With this as a back drop, we believe the staff of the commission, and the commission itself, should pursue more detail on the following recommendations:

33. Affirm that Maryland's licensing system, as opposed to a control state system, has functioned appropriately and this should not change. Because there was no testimony as to problems in the three counties where some aspects of a "control state" system are in place, the decision on changing those to a licensing system should be a local decision. This is a fairness in markets recommendation. *(This recommendation will lead to Maryland being necessarily lower in terms of "best practices" regulation as ranked by some who believe license states have inherently looser regulatory systems than control states.)*

34. Affirm that there are economic and community benefits to alcohol beverage manufacturing occurring in-state. More of the positive economic impact of the whole alcoholic beverage industry occurs in Maryland, the placement of manufacturing facilities in the State present no inherent public health issues, the State itself has greater control over the entire scope of the alcoholic beverage industry, and indirect positive impacts occur in other sectors, particularly agriculture. This is a fairness in markets and a public health recommendation.
35. Encourage and formalize cooperation between all the public agencies that deal with alcoholic beverages. This includes health departments, law enforcement agencies, local and state licensing entities, and revenue collection functions. This recommendation should specifically require that formal ties be created between these in-state entities. The Comptroller should convene regular meetings of these entities to share information about regulatory, commercial, and public safety issues; new situations that arise; and to develop policies or recommendations to improve market function and public safety. For example, the task force heard testimony that “nuisance locations” are a national problem. The multi-agency gatherings could examine “best practices” that have been successful both in-state and in other jurisdictions in curbing the effects of these locations and ending nuisance operations. This is a public health recommendation.
36. The issue was repeatedly raised concerning campaign contributions to elected officials with authority over Maryland’s alcoholic beverage industry. In fact, Maryland has recently seen members of the General Assembly and local liquor board employees convicted of using the legislative process in a corrupt manner. We believe that the task force can follow the example provided by how Maryland has handled political contributions from the gaming industry and should consider recommending restricting licensees and entities where licensees have an ownership interest from contributing to any elected officials or candidates. This is a fairness in markets recommendation.
37. We recommend that the task force identify the specific public health risks in priority order, the policy and regulatory options to reduce those risks, and then recommend policies that will effectively target the specific problem. For example, testimony provided to the commission has suggested that a more effective enforcement mechanism for social hosts would reduce underage drinking, and the task force should recommend that Maryland move to a civil citation for impermissible social hosting. We do not believe that broad brush regulatory changes are appropriate, efficient, or will be acceptable the public. This is a public health recommendation.
38. We concur with a suggestion made early on by Senator Bates. An estimated fiscal impact of relocating any of the State regulatory functions of the alcoholic beverage industry needs to be completed BEFORE any such recommendations are adopted. We need those fiscal estimates for each and every option for relocation we discuss. This is a fairness in markets recommendation.
39. The task force should consider placing all alcohol enforcement functions within one State government agency with authority to supervise and manage all the licensing and enforcement functions authorized or required by the Annotated Code of Maryland. This would provide consistency, certainty, and a level of oversight for all the functions of the State. Local land use should remain under local government authority. This is a fairness in markets and a public health recommendation.

Appendix 3

Maryland General Assembly

Task Force to Study State Alcohol Regulation, Enforcement, Safety, and Public Health

Adopted Recommendations

The recommendations approved by the task force are as follows. The numbers correspond to those in the proposed recommendations presented to the task force at its final meeting on January 7, 2019. The other recommendations either failed to receive a favorable vote or were withdrawn by the sponsor.

Structural and Administrative Recommendations

1. Increase the positions in the Field Enforcement Division to keep pace with the increase in alcohol outlets.
2. Consider implementing “place of last drink” tracking, which would require law enforcement and hospital emergency departments to track the establishments that have furnished the last drink to persons stopped for alcohol influence offenses and share data with appropriate agencies, including local liquor boards, to take appropriate action.
4. Establish a new separate agency in charge of regulating and enforcing alcohol, tobacco, and motor fuel laws in Maryland and related public health considerations. Have that agency responsible for educating the public through resource-sharing and an information clearinghouse about such things as recent increases in alcohol content for popular beer and other beverages, proper limits of drinking for adults and the adverse consequences for breaking the limits, and parent or adult responsibility for serving alcohol to minors, *etc.* The clearinghouse would also be a mechanism for coordinating outreach and enforcement across jurisdictions and among enforcement agencies.
5. Prohibit all alcohol regulators and elected officials, on State and local levels, from accepting any donations from entities or individuals associated with the alcohol, tobacco, or motor fuel industries with respect to regulation of alcohol, tobacco, or motor fuel.
6. Have larger and more conspicuous labeling of alcohol content for any alcoholic beverage sold in Maryland with an alcohol content in excess of 4.5%, consistent with labeling regulations of the federal Alcohol and Tobacco Tax and Trade Bureau.
7. Curtail any further expansion of “one stop shopping” whereby alcohol can be purchased with groceries and other retail goods.
31. Keep the oversight of alcohol taxation in the Office of the Comptroller.

33. Affirm that Maryland’s current three-tier licensing system, as opposed to a control state system, has functioned appropriately and should not be changed.

Statewide General Public Health Recommendations

3. Consider a two-prong approach to social host liability laws by (1) amending the current prohibition on furnishing or allowing underage consumption – §§ 10–117 and 10–119 of the Criminal Law Article – to authorize possible incarceration for a violation that involves home parties, on private premises, and (2) enacting a statewide social host law.
8. Require a public health impact statement for all liquor law changes, prepared either by the independent alcohol regulator established under Recommendation #4 or the Department of Legislative Services.
9. Adopt a statewide civil social host law.

Alcohol Awareness Program Recommendations

12. Require mandatory certification in an approved Alcohol Awareness Program for all license holders, managers, and servers – current law only requires training for “A holder of any retail alcoholic beverages license or an employee designated by the holder...” under § 4-505 of the Alcoholic Beverages Article.
13. Mandate at least one employee who is certified in an Alcohol Awareness Program to be on-site with no exceptions – there is currently no statewide on-site requirement, and some jurisdictions have carved out exceptions.

Data Collection Recommendations

17. Maintain statewide database of individuals trained in an Alcohol Awareness Program.
18. Maintain an *accurate* statewide database of all licenses that is updated at least annually. Old license lists should be maintained for at least three years and then archived but not destroyed. Although there is currently a statewide license database, according to many jurisdictions, it is not accurate or updated often.

Recommendations Related to Enforcement Activities, Including Inspections and Compliance

19. Require the Maryland General Assembly to develop guidelines for the dedication of a minimum effective portion of a liquor board’s budget to administrative enforcement activities, such as inspections, compliance checks, over service, operations, and trade practice violations. While all jurisdictions budget for routine inspections, most do not routinely perform other effective enforcement activities, such as compliance checks, or they rely on occasional grants, which leads to a lack of consistency in enforcement.

20. Require alcohol compliance checks under which each license is checked at least once a year, similar to the compliance checks in tobacco enforcement programs.
21. Require the State to develop guidelines for the minimum capacity of inspections for local liquor boards based on the number and type of licensed outlets in the licensing jurisdiction.
24. Liquor inspections should be based on data, such as the licensee's violation history, EMS calls, and 911/311 calls to ensure that resources are being allocated based on where the greatest need is, rather than only the quantity of inspections each year.
25. Require the reporting of aggregate data between local police and liquor boards, which is currently not required.
26. Require the development of mandatory State-provided training for liquor inspectors based on best practices. Currently, there is no training required, and little is available.

Licensing/Administrative Penalty Recommendations

28. Require that State-issued licenses and permits be reported to the local jurisdiction within 10 days after receipt of application. This is not currently required but would be helpful to local jurisdictions.
30. Require that the Maryland General Assembly study the implementation of graduated sanctions for violations of the laws on Sales to Minors and Sales to Intoxicated Persons to establish what minimum penalties would be effective. There are currently no such statewide requirements or guidelines.

A New Scale of the U.S. Alcohol Policy Environment and Its Relationship to Binge Drinking

Timothy S. Naimi, MD, MPH, Jason Blanchette, MPH, Toben F. Nelson, ScD, MPH, Thien Nguyen, MPH, Nadia Oussayef, JD, MPH, Timothy C. Heeren, PhD, Paul Gruenewald, PhD, James Mosher, JD, Ziming Xuan, ScD, SM

Background: Of outcomes related to excessive drinking, binge drinking accounts for approximately half of alcohol-attributable deaths, two thirds of years of potential life lost, and three fourths of economic costs. The extent to which the alcohol policy environment accounts for differences in binge drinking in U.S. states is unknown.

Purpose: The goal of the study was to describe the development of an Alcohol Policy Scale (APS) designed to measure the aggregate state-level alcohol policy environment in the U.S. and assess the relationship of APS scores to state-level adult binge drinking prevalence in U.S. states.

Methods: Policy efficacy and implementation ratings were developed with assistance from a panel of policy experts. Data on 29 policies in 50 states and Washington DC from 2000–2010 were collected from multiple sources and analyzed between January 2012 and January 2013. Five methods of aggregating policy data to calculate APS scores were explored; all but one was weighted for relative policy efficacy and/or implementation. Adult (aged ≥ 18 years) binge drinking prevalence data from 2001–2010 was obtained from the Behavioral Risk Factor Surveillance System surveys. APS scores from a particular state-year were used to predict binge drinking prevalence during the following year.

Results: All methods of calculating APS scores were significantly correlated ($r > 0.50$), and all APS scores were significantly inversely associated with adult binge drinking prevalence. Introducing efficacy and implementation ratings optimized goodness of fit in statistical models (e.g., unadjusted $\beta = -3.90$, $p < 0.0001$, $R^2 = 0.31$).

Conclusions: The composite measure(s) of the alcohol policy environment have internal and construct validity. Higher APS scores (representing stronger policy environments) were associated with less adult binge drinking and accounted for a substantial proportion of the state-level variation in binge drinking among U.S. states.

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Background

Excessive alcohol consumption is a leading cause of morbidity, mortality, social problems, and economic costs in the U.S.^{1–5} Of outcomes related to excessive drinking, binge drinking accounts for approximately half of alcohol-attributable deaths, two thirds of years of potential life lost, and three fourths of economic costs.^{5,6} Alcohol policies, which comprise the laws, regulations, and practices designed to reduce excessive alcohol use and related harm, can reduce excessive alcohol consumption and related problems at the population level.^{1,7,8} Alcohol consumption patterns, including binge drinking, and alcohol policies vary substantially

From the Section of General Internal Medicine (Naimi, Blanchette), Boston Medical Center, the Department of Community Health Sciences (Naimi, Nguyen, Xuan), the Department of Health Law, Bioethics and Human Rights (Oussayef), the Department of Biostatistics (Heeren), Boston University School of Public Health, Boston, Massachusetts; the Division of Epidemiology and Community Health (Nelson), University of Minnesota School of Public Health, Minneapolis, Minnesota; and the Prevention Research Center (Gruenewald), Pacific Institute for Research and Evaluation, Berkeley, CDM Group, Inc. (Mosher), Felton, California

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across U.S. states.^{9,10} It is unknown, however, whether or to what degree the combined effects of multiple concurrent alcohol policies account for differences in alcohol consumption patterns in the U.S.

Many alcohol policy studies examine single policies, taking advantage of natural experiments that occur when a policy is introduced, modified, or withdrawn.^{11–15} However, the distribution, sale, and consumption of alcohol are affected by multiple policies in all U.S. states. To determine the extent to which these policies are related to a particular alcohol-related outcome, it is crucial to assess the strength of the *alcohol policy environment*, conceptualized as the combined effect of multiple concurrent policies and operationalized as composite policy measures. Understanding the effect of the policy environment is important to determining the effect of alcohol policies in relation to other factors that contribute to excessive drinking and to understanding the relative effectiveness of particular policies or combinations of policies.

Composite policy measures have been used to characterize the policy environment in other areas of public health, such as tobacco use^{16–18} and weight and obesity.^{19,20} In these areas, the policy environment has been shown to be correlated with health behavior and related outcomes in U.S. states.^{16,19,20} For alcohol, prior research has explored aggregating the alcohol policy environment by creating a simple score that is the sum across a set of policies of whether a policy exists or not.^{21–24} However, this approach does not account for the relative efficacy of each policy compared with other policies, nor does it account for the degree to which each policy is designed or implemented.²⁵

In an international context, Brand and colleagues developed a country-specific “alcohol policy index” that accounted for relative policy efficacy and policy implementation.²⁶ Each policy was assigned a relative weight of low, medium, or high based on a comparative efficacy analysis developed by the WHO.¹ Policies in country-years were given full or partial credit based on the stringency of implementation. The Alcohol Policy Index score was inversely associated with per capita consumption across 30 countries; its relationship to youth drinking has also been assessed.^{27,28}

To date, we are not aware of any composite measures to operationalize the alcohol policy environment in U.S. states. The purpose of this paper is to describe the processes and methods used to develop “Alcohol Policy Scale” (APS) scores for U.S. states, and to characterize the association between APS scores and binge drinking prevalence in U.S. states.

Methods

Policy Panelists

Because there was no “gold standard” by which to develop composite variables to operationalize the policy environment, a panel of ten

alcohol policy experts were engaged, using a modified Delphi approach. The policy experts assisted with three tasks: (1) nominating and selecting existing alcohol policies; (2) rating the relative efficacy of those policies; and (3) developing implementation ratings for each policy. The names, affiliations, and areas of expertise of the panelists are summarized in [Appendix A](#) (available at www.ajpmonline.org).

Policy Selection, Policy Efficacy Ratings

After de-duplication, 47 unique alcohol policies were initially nominated by panelists. Investigators then developed standardized, idealized descriptions of each policy. Panelists then independently rated the efficacy of each policy for reducing binge drinking based on a 5-point Likert scale (1=low efficacy, 5=high efficacy; see also [Appendix B](#), available at www.ajpmonline.org). Each panelist rated each policy in the context of four distinct outcome domains: reducing binge drinking among adults, reducing impaired driving among adults, reducing binge drinking among underage youth, and reducing impaired driving among youth. Because the goal was to relate the policy scale to binge drinking prevalence among adults, efficacy ratings (ERs) for reducing binge drinking among adults were used for these analyses. Additional detail about the efficacy rating process and average efficacy scores for each policy are summarized in a separate publication.²⁹

Because this was a study of state policy environments, federal policies or those that did not vary across states were excluded. Also, policies that did not exist in the U.S. and those without reliable cross-state data were excluded. Examples of excluded policies were blood alcohol concentration (BAC) 0.05 laws (do not exist in the U.S.); restrictions on mass media advertising (not promulgated at the state level); public intoxication laws (no variance at the state level); and mandatory substance abuse assessment for DUI offenders (absence of reliable data). Policies excluded because of inadequate or missing data tended to have low efficacy ratings (of 47 policies, the median rank was 32 based on efficacy to reducing binge drinking among the general population). Ultimately, 29 policies met inclusion criteria.

Implementation Ratings

In consultation with panelists with expertise in particular policies, an implementation rating (IR) was developed for each policy based on provisions or characteristics of a particular policy. Factors informing the implementation rating were typically based on a policy’s statutory design (i.e., provisions making the policy broadly applicable, effective, or enforceable). The IR scales were reviewed by all panelists and revised by the investigators after reviewing the panelist feedback; any revisions typically involved re-weighting an IR scale metric based on panelist opinion about the relative importance of particular provisions. For all policies, the IR scale score by state and year could range from 0.0 (no policy) to 1.0 (full implementation; [Appendix B](#), available at www.ajpmonline.org). Although IR scores varied by state-year, the scoring criteria applied to each policy were uniform across state-years.

Aggregating Policy Data to Calculate Alcohol Policy Scale Scores

Five methods were tested of aggregating policy data into APS scores for each state-year. Method 1 was based on a summation of

one point for each existing policy. Method 2 involved summing the ERs of all existing policies. Method 3 involved summing the IRs of all existing policies.

Methods 4 and 5 involved summing the products of policy ERs and IRs of all existing policies. In Method 4, the ERs were determined directly by rescaling the Likert-scale ratings (i.e., $[ER-1]/4$); in Method 5, the ERs were transformed by taking the inverse of their ER rank relative to other policies. For Methods 4 and 5, the purpose of rescaling the ERs was to ensure that the maximum possible ER was 1, in order to make the ERs and IRs of comparable magnitude so that when combined they could contribute approximately equally to the APS scores.

The approach for Methods 4 and 5 is a commonly utilized aggregation technique in the composite indicator literature that involves summing weighted and normalized subindicators.³⁰ It was hypothesized that either Method 4 or 5 would be the best way to operationalize the policy environment. The general formula to calculate the APS scores for Methods 4 and 5 is:

$$APS\ score_{jh} = \sum_{k=1}^n (ER_k * IR_{kjh}),$$

where j =state, h =year, k =policy, ER =efficacy rating, and IR =implementation rating.

Data Sources

For policy data sources, only sources with data for all 50 states that used uniform ascertainment methods across states were included (Appendix C, available at www.ajpmonline.org). The primary policy data source was the Alcohol Policy Information System (APIS).²⁵ APIS was a source for 14 of the 29 policies and was the primary source for 13 of these policies. Additional data sources were used to collect and code data about policies and provisions that were not included in APIS.

Investigators reviewed the data for each policy to identify missing or inconsistent data and to identify data that changed briefly before returning to their original form. When multiple data sources were available for a particular policy, data sources were cross-checked for consistency. Discrepancies were resolved by a public health lawyer using the legal research database WestlawNext. For six policies with missing data from 2000 to 2008, the research team used WestlawNext to conduct historical reviews to identify policy changes during that period. Policy data were collected and reviewed from January 2011 to July 2012.

State-level adult binge drinking prevalence during 2001–2010 came from the Behavioral Risk Factor Surveillance System (BRFSS) survey. Extensive detail about the BRFSS and its methods are available at www.cdc.gov/brfss. The BRFSS is a state-based random-digit-dial telephone survey of people aged ≥ 18 years, which is conducted monthly in all states, the District of Columbia, and three U.S. territories. Binge drinking was defined as consuming ≥ 5 (men) or ≥ 4 (women) drinks on one or more occasions in the past 30 days. Data were weighted to be representative of state populations.

Comparing Methods of Calculating the Scores

The five methods were used to calculate a policy environment score for each of the 50 U.S. states and Washington DC for each year from 2000 to 2010, resulting in 561 state-years for each method. Pearson correlations were calculated to compare pairwise association among the policy scores for the five methods.

Assessing the Relationship between the Scores and Binge Drinking

For all state-year strata, linear regression was conducted using state-year APS scores of each scoring method to predict state-level binge drinking prevalence. Goodness of fit was evaluated in the form of R -squared. A 1-year lag between the APS exposure variable and binge drinking prevalence outcome was assessed (e.g., APS scores in Year X were associated with binge drinking prevalence in Year X+1). The same analyses were also performed using 0- and 3-year lag periods. To adjust for the clustering of repeated measures of the same state, generalized estimating equations, as well as a longitudinal analysis, were employed to compare to results based on linear regression. Linear regressions were also performed on the relationship between APS scores and binge drinking prevalence for individual years (versus all years combined) using a 1-year lag between the APS scores and binge drinking prevalence outcomes. Analyses were conducted during January 2012–January 2013.

Results

Correlation among Methods

When comparing the various methods of calculating APS scores relative to Method 1 (the method of simply summing the number of present policies for all state-years of data), all correlation coefficients were $r > 0.5$ and were significant (Table 1). Method 1 demonstrated the weakest correlation compared with Methods 4 and 5, which weighted existing policies according to both their efficacy and implementation ratings.

Table 1. Correlation of five different methods of calculating the Alcohol Policy Scale scores, U.S. states, 2000–2010

Method	1 ^a	2 ^b	3 ^c	4 ^d
1 ^a	—	—	—	—
2 ^b	0.886	—	—	—
3 ^c	0.802	0.713	—	—
4 ^d	0.692	0.746	0.927	—
5 ^e	0.504	0.609	0.752	0.899

Note: Boldface indicates significance. For all values, $p < 0.0001$.

^aMethod 1 was calculated by summing one point for each existing policy in a particular state-year.

^bMethod 2 was calculated by summing the efficacy ratings of all existing policies in a particular state-year.

^cMethod 3 was calculated by summing the implementation ratings of all existing policies in a particular state-year.

^dMethod 4 was calculated by summing the products of implementation and efficacy ratings in a particular state-year. The ERs were determined directly by rescaling the Likert scale ratings, that is, $(ER-1)/4$.

^eMethod 5 was calculated by summing the products between implementation and efficacy. Efficacy ratings were transformed by taking the inverse of their ER rank relative to other policies.

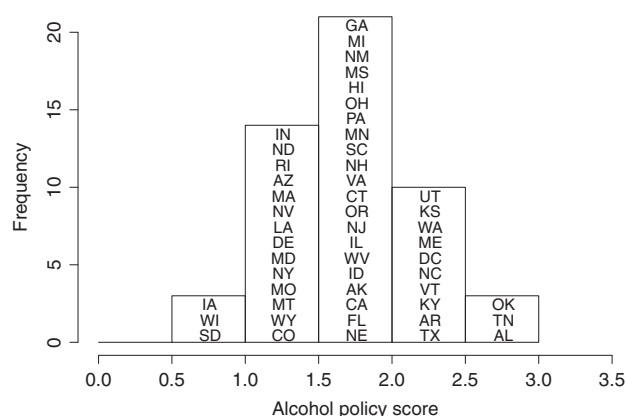


Figure 1. Distribution of Alcohol Policy Scale scores, 2008

State Variation in Scores

The policy environment differed across U.S. states. Using 2008 as an example, [Figure 1](#) shows the distribution of APS scores for all 50 U.S. states and Washington DC using Method 5. The scores appear to be normally distributed. South Dakota had the lowest APS score, and Oklahoma had the highest score.

Relationship between Scores and Binge Drinking Prevalence

All five methods for calculating the APS score were significantly associated with lower binge drinking prevalence among adults (e.g., Method 5 $\beta = -3.90$, $p < 0.0001$; [Table 2](#)). The simple summative scale (Method 1) explained the least variance of adult binge drinking ($R^2 = 0.12$) in bivariate models. Introducing either ERs (Method 2) or IRs (Method 3) improved the goodness of fit compared with Method 1 (Method 2 $R^2 = 0.15$, Method 3 $R^2 = 0.18$). Combining efficacy ratings and implementation ratings in Methods 4 and 5 further improved goodness of fit (Method 4 $R^2 = 0.25$, Method 5 $R^2 = 0.31$).

Findings stratified by year of outcome from 2001–2010 were similar to pooled results (range for R^2 based on Method 5 using a 1-year lag = 0.26–0.38, mean = 0.32, median 0.33). In pooled analyses using linear regression models, using 0- and 3-year lags between APS scores and binge drinking prevalence did not meaningfully affect the results.

Based on Method 5, controlling for selected state-level covariates including age, gender, race/ethnicity, religious composition, median household income, urbanization, police officers per capita, region, and year further increased the goodness of fit in a simple linear regression model of the relationship between the APS score and adult binge drinking prevalence ($\beta = -1.90$, $p < 0.0001$, $R^2 = 0.61$).

Assessing the relationship between APS scores and adult binge drinking prevalence using other regression methods yielded similar results. Based on GEE method adjusting for clustering (e.g., first-order autoregressive

covariance structure) of repeated measures of states over the study period, the alcohol policy score was inversely correlated with binge prevalence ($\beta = -1.84$, $SE = 0.61$, $p < 0.001$; [Table 3](#)). Longitudinal analysis yielded consistent unadjusted and adjusted (with covariates) effects of APS (Method 5) scores on binge drinking prevalence (unadjusted $\beta = -2.41$, $p < 0.001$; adjusted $\beta = -1.40$, $p = 0.03$, respectively).

Based on Method 5, the median state binge drinking in ascending quartiles of APS scores were 17.4%, 15.8%, 15.6%, and 13.0%. After adjusting for the state covariates and clustering for repeated measures, having an above-median APS score was associated with reduced odds of having a state binge drinking prevalence in the top quartile (AOR = 0.28, 95% CI = 0.10, 0.82; data not shown).

As an example from a single comparison period, [Figure 2](#) shows the unadjusted relationship between state APS scores in 2008 and state-level binge drinking prevalence in 2009 ($r = -0.54$, $p < 0.001$). The six states with the highest APS scores (Washington, Kansas, Utah, Alabama, Tennessee, Oklahoma) fell below the median in terms of binge drinking prevalence and the six states with the lowest APS scores (South Dakota, Wisconsin, Iowa, Colorado, Wyoming, Montana) had prevalences above the median binge drinking prevalence.

Table 2. Relationship between Alcohol Policy Scale scores and binge drinking prevalence^a among adults, U.S. states, 2000–2010^b

APS score method	Beta	SE	p-value	R ²
1 ^c	−0.455	0.055	<0.0001	0.119
2 ^d	−1.308	0.137	<0.0001	0.153
3 ^e	−0.592	0.056	<0.0001	0.179
4 ^f	−1.633	0.126	<0.0001	0.250
5 ^g	−3.901	0.256	<0.0001	0.314

^aBRFSS binge drinking prevalence was obtained from BRFSS surveys and was defined as ≥ 1 occasions of consuming ≥ 4 drinks for women or ≥ 5 drinks for men in the past 30 days.

^bAPS scores were associated with binge drinking outcomes using a 1-year lag between APS scores and binge drinking outcomes (e.g., APS scores in 2008 were associated with binge drinking prevalence in 2009).

^cMethod 1 was calculated by summing one point for each existing policy.

^dMethod 2 was calculated by summing the efficacy ratings of all existing policies in a particular state-year.

^eMethod 3 was calculated by summing the implementation ratings of all existing policies in a particular state-year.

^fMethod 4 was calculated by summing the products of implementation and efficacy ratings of all existing policies in a particular state-year after rescaling the efficacy ratings, that is, $(ER-1)/4$.

^gMethod 5 was calculated by summing the products of implementation ratings and the inverse of the efficacy rating ranks of all existing policies in a particular state-year.

APS, Alcohol Policy Scale

Table 3. Relationship between Alcohol Policy Scale score^a and binge drinking prevalence^b among adults for the generalized estimating equations model, U.S. states, 2000–2010^c

State-level predictor	Beta	SE	p-value
APS score	−1.844	0.606	<0.001
Adult (aged ≥ 21 years) proportion	0.002	0.004	0.046
Male proportion	0.189	0.207	0.362
Non-Hispanic white proportion	−0.029	0.012	0.012
Non-Hispanic black proportion	−0.008	0.030	0.800
Non-Hispanic others proportion	−0.002	0.031	0.958
Hispanic proportion	ref		
Level of urbanization	−0.040	0.073	0.579
Median household income	0.037	0.028	0.179
Religious (Catholic) per 1000	0.007	0.004	0.046
Police officers per 1000	0.280	0.331	0.396
Northeast region	0.108	1.239	0.930
Midwest region	2.652	0.853	0.002
South region	−1.153	0.931	0.216
West region	ref		
Year (as a continuous variable)	−0.003	0.057	0.954

^aAPS scores were calculated by summing the products of implementation ratings and the inverse of the efficacy rating ranks of all existing policies in a particular state-year.

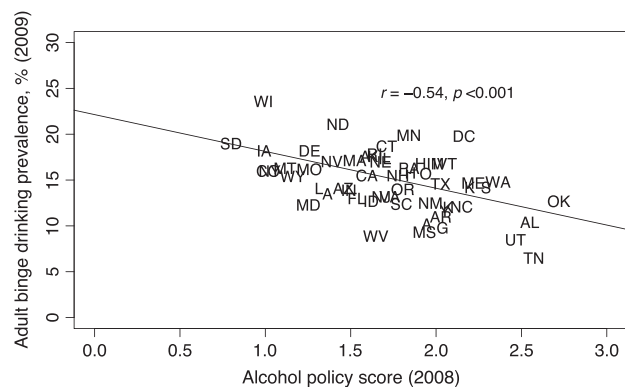
^bBRFSS binge drinking prevalence was obtained from BRFSS surveys and was defined as ≥ 1 occasions of consuming ≥ 4 drinks for women or ≥ 5 drinks for men in the past 30 days.

^cAPS scores were associated with binge drinking outcomes using a 1-year lag between APS scores and binge drinking outcomes (e.g., APS scores in 2008 were associated with binge drinking prevalence in 2009) adjusting for state-level covariates and for clustering among repeated measures of the same state across the study period using Generalized Estimating Equations method.

APS, Alcohol Policy Scale

Discussion

Policy environments differed widely across U.S. states over time. This analysis found that higher APS scores were

**Figure 2.** The Alcohol Policy Scale score for each state during 2008 and corresponding unadjusted adult binge drinking prevalence during 2009

strongly inversely associated with adult binge drinking before and after adjusting for a variety of potential confounders. Further, the alcohol policy environment explained a substantial proportion of the variation between state binge drinking prevalence. These findings suggest that the alcohol policy environment is an important determinant of drinking behaviors at the population level, and provide new evidence that population-based policies are an effective, modifiable means by which to reduce excessive drinking.

To our knowledge, the Alcohol Policy Scale represents the first effort to develop and validate a composite measure to operationalize the alcohol policy environment in U.S. states. This work is important to determine whether, or to what extent, the policy environment is associated with binge drinking, which is a leading preventable cause of death in the U.S.³¹ Further,

characterizing the policy environment may lead to a better understanding of the relative importance of policies and in the context of other factors as possible risk or protective factors for excessive drinking. Finally, characterizing the policy environment could lead to a better understanding of the relative effectiveness of individual policies or combinations of policies and could contribute to future efforts to modify the policy environment in order to achieve public health objectives related to excessive drinking.

Findings were similar when using different lag periods between the policy environments and drinking outcomes, were consistent in individual years as well as for all years combined, and were consistent when using statistical models that account for clustering of repeated measures of the same state over time. Although it is possible that public opinion supporting more restrictive alcohol policies is associated with lower levels of drinking and a stronger policy environment, comprehensive reviews of effective alcohol policies have been based primarily on longitudinal analyses in which the effect of policy is assessed after the

policy is enacted, thus controlling for prevalent attitudes that led to adoption of those policies in the first place.^{32–36}

All the methods of aggregating the policies into APS scores were correlated with one another, suggesting that the approach was robust with respect to characterizing the policy environment across several related methodologies. In terms of construct validity, APS scores that were based on policies after weighting for their relative efficacy as well as their degree of implementation best predicted adult binge drinking outcomes in states. This supported the hypothesis that the mix of prevalent policies, as well as their relative efficacy and degree of implementation, are all important factors when operationalizing the policy environment as an exposure variable.

Limitations

This study is subject to caveats and limitations. The purpose of this study was to determine if varying policy environments accounted for differences in binge drinking across U.S. states. Potentially effective policies that have not been adopted in the U.S. were not assessed (e.g., 0.05% BAC laws). The policy scales did not include policies that are promulgated at the national, county, or local levels (e.g., alcohol marketing in mass media, county-level alcohol taxes). In addition, some policies nominated as effective did not have reliable cross-state data about their presence or provisions and were therefore not included in the APS scoring system. Further, the efficacy ratings and implementation ratings for any given policy may be informed by an incomplete and limited evidence base, and a different group of investigators or policy panelists might have differing opinions about what constitutes key provisions of a given policy.³⁰

Enforcement is a theoretically important component of policy implementation for some policies,³⁷ but there are no reliable, publicly available cross-state data about enforcement, even for specific policies. This limitation was addressed by including policy provisions that made particular policies enforceable, by including the number of Alcoholic Beverage Control officials with enforcement capability as an alcohol policy in our scales, and by controlling for the number of police officers per capita as a state-level control variable. However, all limitations related to the imprecision of the exposure or outcome variables may have biased the results towards the null hypothesis, particularly because the methods used here for policy ascertainment, policy scoring systems, and determining binge drinking prevalence were uniform across states. BRFSS estimates are subject to survey noncoverage and nonresponse biases, but are reliable for comparisons across states,^{38,39} which was the focus of the current analyses.

Conclusion

Development of the APS establishes the groundwork for further studying the effect of the alcohol policy environment in the U.S. and for subsequently assessing the relative impacts of combinations of related policies for reducing binge drinking or other alcohol-related outcomes such as youth drinking, impaired driving, alcohol use disorders, alcohol-related economic costs, and alcohol-attributable mortality. Although efficacy ratings specific to adult binge drinking were used in this analysis, the collection of several context-specific efficacy ratings (e.g., efficacy for reducing drinking and driving among youth) from the expert panelists potentiates such future analyses.

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Appendix

Supplementary Data

Supplementary data associated with this article can be found, in the online version, at <http://dx.doi.org/10.1016/j.amepre.2013.07.015>.

A New Scale of the U.S. Alcohol Policy Environment and Its Relationship to Binge Drinking

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Appendix A

Alcohol policy experts who nominated policies, rated policy efficacy, and provided input to develop the implementation ratings for 29 alcohol policies in the U.S.

Policy panelist	Affiliation and title	Areas of expertise
Thomas Babor, PhD	Professor and Chair, Dept. of Community Medicine, University of Connecticut School of Medicine	International alcohol use, cultural factors related to alcohol and drug problems
Robert Brewer, MD	Lead Epidemiologist, Alcohol Program, CDC	Binge drinking, alcohol epidemiology, alcohol-impaired driving
Frank Chaloupka, PhD	Professor, Department of Economics, University of Illinois at Chicago	Economic analysis of substance use and abuse, impact of tax and price policies on alcohol consumption and harms
Paul Gruenewald, PhD	Scientific Director/Senior Research Scientist, Prevention Research Center, Berkeley CA	Social, economic, and physical availability of alcohol, alcohol use, and alcohol-related problems
Harold Holder, PhD	Senior Research Scientist (retired), Prevention Research Center, Berkeley CA	Environmental strategies for the prevention of substance abuse; multicomponent policy intervention studies
Michael Klitzner, PhD	Principal Social Scientist, The CDM Group, Bethesda MD	Public policy and systems science, adolescent health, traffic safety, alcohol and drug problems
James Mosher, JD	Senior Policy Advisor, The CDM Group, Inc. & Consultant, Alcohol Policy Consultations, Felton CA	Alcohol law, alcohol policy analysis, public health law
Rebecca Ramirez, MPH	Program Director, Pacific Institute for Research and Evaluation, Calverton MD	Alcohol beverage control agency activities, alcohol law enforcement, law enforcement practices and evaluation
Robert Reynolds, MA	Retired Director of Alcohol Policy Initiatives, Pacific Institute for Research and Evaluation, Calverton MD	Community-based interventions, community mobilization for policy implementation, policy advocacy
Traci Toomey, PhD	Professor, Division of Epidemiology and Community Health, University of Minnesota	Alcohol policy effectiveness research, intentional and unintentional injury prevention, underage drinking

Appendix B

Efficacy Ratings and Implementation Indices for 29 Policies with Policy Scores

Note: Efficacy ratings ranged from 1 (low efficacy) to 5 (high efficacy); implementation indices could range from 0 to 1 for any state-year; policies are presented in alphabetical order.

ABC's present, functional, adequately staffed:

Average expert efficacy rating for reducing binge drinking among adults: 3.375

Implementation rating index:

Any functional state-level or complete county-level (e.g., Hawaii and Maryland, in 2010) alcohol agency that does licensure, adjudication, regulation or enforcement AND has agents or police dedicated to enforcement of alcohol laws, regardless of whether they are housed in ABC agency= +0.3; the ratio of agents per licensed outlet was rescaled to a range from +0.0 to +0.7, with states that have more agents per licensed outlet receiving a higher score; having no ABC agency, or a state without any agents dedicated to alcohol regulation or enforcement= 0.0.

Administrative license revocation:

Average expert efficacy rating for reducing binge drinking among adults: 2.575

Implementation rating index:

State has administrative license revocation (ALR) for driving-under-the-influence (DUI) offense and ALR for refusing implied consent chemical test (not preliminary breath test)= +0.2; state has preliminary breath-test law= +0.1; minimum length of ALR for DUI offense if failed but did not refuse to take test: (minimum 3+ months= +0.5, else minimum 1–2+ months= +0.3, else minimum <1 months= +0.0); minimum length of ALR for refusing implied consent chemical test (preliminary breath test): (minimum 6+ months= +0.2, or minimum 3+ months= +0.1, or minimum <3 months= +0.0).

Blood alcohol concentration 0.08/per se laws:

Average expert efficacy rating for reducing binge drinking among adults: 2.75

Implementation rating index:

State has 0.08 per se law= +0.5; if state has no ALR for failing test, then minimum mandatory license suspension ≥ 30 days for first violation; if state has ALR for failing test, then mandatory minimum postconviction suspension for first violation exceeds mandatory minimum ALR suspension for first violation and is of at least 30 days duration= +0.1; any mandatory minimum fine or jail time for first offense= +0.1; anti-plea bargaining statute and/or mandatory adjudication= +0.1; preliminary breath-test law= +0.1; any mandatory substance abuse assessment and/or treatment provision (no credit for mandatory education)= +0.1.

Days of sale restriction (Sunday sales):

Average expert efficacy rating for reducing binge drinking among adults: 2.875

Implementation rating index:

Any ban= +0.6; no local option exception= +0.3; no exception for permitting 3.2 beer= +0.1; no Sunday sales ban= 0.0.

Dram shop/commercial liability laws:

Average expert efficacy rating for reducing binge drinking among adults: 3.275

Implementation rating index:

Dram shop/commercial liability for serving to intoxicated patrons, must include adults (adult score was added to score for serving to youth): [a policy holding individuals liable for serving alcohol to intoxicated patrons within common law only, or common law in combination with statutory law if no restrictions and/or common law not abrogate= 0.7 (for adult score); a policy holding individuals liable for serving/selling alcohol to intoxicated patrons within statutory law, liability must apply to both on- and off-premises establishments, and liability is not limited to situations where damage was caused by patron's driving= +0.1; limits on damages within statutory law (no limits= +0.25, limits $\geq$ \$1 million= +0.15, limits $<$ \$1 million= +0.0); statute does not establish evidentiary standards that limit the ability of plaintiffs to establish liability of defendant (negligence and preponderance of the evidence do not limit and therefore receive full credit. Standards that do limit include knowledge, recklessness, criminal negligence, clear and convincing evidence, or beyond a reasonable doubt)= +0.2; no dram shop policy for serving to intoxicated adults =0.0 (for adult score)].

Dram shop/commercial liability for serving to youth (youth score was added to score for serving to intoxicated adults): [a policy holding individuals liable for serving alcohol to youth within common law only, or common law in combination with statutory law if no restrictions and/or common law not abrogated =0.3 (for youth score); a statutory policy exists without limits on damages= +0.1; a statutory policy exists that does not establish evidentiary standards limiting the ability of plaintiffs to establish liability of defendant (negligence and preponderance of the evidence do not limit and therefore receive full credit. Standards that do limit include knowledge, recklessness, criminal negligence, clear and convincing evidence, or beyond a reasonable doubt)= +0.1; no policy for youth dram shop= 0.0 (for youth score)].

Youth and intoxicated/adult scores were added together to establish dram shop final score.

False ID laws:

Average expert efficacy rating for reducing binge drinking among adults: 1.075

Implementation rating index:

Driver's license suspension (+0.4 for administrative suspension, +0.2 for judicial suspension, +0.0 for no suspension); penalties for selling/lending/transferring IDs= +0.15; incentivizing use of scanners= +0.1; permission for retailers to seize false IDs= +0.05; affirmative defense (specific= +0.3, none= +0.2, general= +0.0).

Fetal alcohol syndrome warning signs:

Average expert efficacy rating for reducing binge drinking among adults: 1.6

Implementation rating index:

Warning signs required at both on-sale and off-sale establishments= 1.0; required off-sale but no on-sale= 0.6; required on-sale but not off-sale= 0.4; required neither on-sale nor off-sale= 0.

Furnishing alcohol to minors prohibited:

Average expert efficacy rating for reducing binge drinking among adults: 1.275

Implementation rating index:

Provisions aimed at social (noncommercial) sources of alcohol, parental exceptions: (no parental exceptions= +0.5, else exception for parent/guardian in parent/guardian's home only= +0.4, else exception for parent/guardian in any private residence= +0.2, else exception for parent/guardian in any

private location= +0.1, else exception for parent/guardian without regard to location= +0.0); provisions aimed at commercial sources of alcohol: (no affirmative defense= +0.5).

Graduated driver license laws:

Average expert efficacy rating for reducing binge drinking among adults: 1.225

Implementation rating index:

Unsupervised nighttime driving prohibited in intermediate stage (9PM or earlier or sunset= +0.3, 10PM= +0.2, 11PM= +0.1, after 11PM= +0.0); minimum age when nighttime restrictions can be lifted (18 years= +0.1, 17 years= +0.05); driving with nonfamily passengers aged <19 years restricted in the intermediate stage during hours when driving is not required to be supervised (no underage passengers allowed= +0.3, no more than one underage passenger allowed= +0.1, two or more underage passengers allowed or no restrictions on passengers= +0.0); minimum age when passenger restriction can be lifted (18 years= +0.1, 17 years= +0.05); minimum age of licensing is 16 years (+0.2).

Home delivery and direct shipment of alcohol to consumers restricted:

Average expert efficacy rating for reducing binge drinking among adults: 1.825

Implementation rating index:

Home delivery from retailers to consumers (home delivery score added to direct shipment score for final score): [home delivery is banned for all beverage types= 0.7 (for home delivery score); home delivery of spirits (banned= +0.3, no law= 0.15, allowed= +0.0); home delivery of beer (banned= +0.3, no law= +0.15, allowed= +0.0); home delivery of wine (banned= +0.1, no law= +0.05, allowed= +0.0)].

Direct shipment of alcohol from producers to consumers (direct shipment score added to home delivery score for final score): [banned for all beverage types, or mandatory trip to producer is required for all beverage types= 0.3 (for direct shipment score); banned for beer and spirits but exception allowed for wine with mandatory age verification at point of delivery= 0.2 (for direct shipment score); exception for wine only but without mandatory age verification at point of delivery, or an exception for both wine and beer with mandatory age verification at point of delivery= 0.1 (for direct shipment score); no ban for any beverage type, or exception for wine and beer without mandatory age verification at point of delivery= 0.0 (for direct shipment score)].

Home delivery and direct shipment scores were added together to establish final score.

Hours of sale restrictions:

Average expert efficacy rating for reducing binge drinking among adults: 3.225

Implementation rating index:

Off-premises: (≤ 16 hours of sales and closing time is midnight or earlier= +0.5, else ≤ 16 hours of sales and close after midnight= +0.4, else >16 hours of sales and close at midnight or earlier= +0.2, else >16 hours of sales and close after midnight= +0.0, else local option= +0.25); on-premise: (≤ 19 hours of sales and close at 2AM or earlier= +0.5, else >19 hours of sales and close at 2AM or earlier= +0.4, else ≤ 19 hours of sales and close after 2AM= +0.2, else >19 hours of sales and close after 2AM= +0.0, else local option= +0.25).

House party laws, criminal liability:

Average expert efficacy rating for reducing binge drinking among adults: 1.625

Implementation rating index:

Any policy= +0.3; evidentiary standard (negligence= +0.3, else knowledge= +0.1, else overt act or recklessness= +0.0); applies to all property types= +0.1; specific to underage parties= +0.1; no leniency for preventive actions= +0.1; type of violation includes possession= +0.1.

Ignition interlock laws for driving-under-the-influence offenders:

Average expert efficacy rating for reducing binge drinking among adults: 2.1

Implementation rating index:

Mandatory interlocks for specific types of offenders: (mandatory interlocks for all offenders= +0.7, else mandatory interlocks for high-BAC first-time offenders and multiple offenders= +0.4, else mandatory interlocks for multiple offenders only= +0.2); minimum length of interlock for first applicable offense: (≥ 12 months= +0.3, 6–11 months= +0.15, <6 months or not specified= +0.0); discretionary interlock use only (i.e., not mandatory for any offender) or NO interlock law at all= 0.0.

Keg registration laws:

Average expert efficacy rating for reducing binge drinking among adults: 1.5

Implementation rating index:

Complete ban on kegs= 1.0; state has any policy on keg registration (short of ban)= +0.1; applies to all kegs ≥ 4 gallons= +0.2; $\geq \$20$ dollar deposit required= +0.1; penalty for label destruction or having unregistered or unlabeled keg= +0.1; must provide address of consumption location= +0.1.

Local option permissible:

Average expert efficacy rating for reducing binge drinking among adults: 2.975

Implementation rating index:

Proportion of counties that exercised local option: States without counties that exercised local option= 0.0; the proportion of counties that exercised local option was used directly as the score.

Minimum age of server/seller:

Average expert efficacy rating for reducing binge drinking among adults: 1.85

Implementation rating index:

Minimum age of seller for off-premise establishment is 21 years for beer/wine/liquor sales= +0.8, else if minimum age is not 21 years for sellers in off-premises establishments, then manager must be present= +0.3; minimum age of seller for on-premises establishment is 21 years for beer/wine/liquor sales= +0.2, else if minimum age is not 21 years for servers and bartenders in on-premises establishments, then manager must be present= +0.1.

Minimum legal drinking-age laws:

Average expert efficacy rating for reducing binge drinking among adults: 2.175

Implementation rating index:

Internal possession and consumption permutations (internal possession prohibited for those aged <21 years= +0.5, else in states where no internal possession laws exist, consumption prohibited by those aged <21 years= +0.2, else possession of alcohol by those aged <21 years is prohibited but neither consumption nor internal possession are prohibited= +0.0); private location exceptions (no exception for possession in a private location or a private residence= +0.5, else an exception exists for possession in a private location or a private residence but only in combination with parent/guardian consent= +0.3, else +0.0).

Open-container laws, automobiles:

Average expert efficacy rating for reducing binge drinking among adults: 1.95

Implementation rating index:

Any policy present= +0.2; prohibition applied to passenger area of any motor vehicle= +0.2; prohibition applied to all alcoholic beverages= +0.2; prohibition applied to all occupants= +0.2; prohibition applied to any public highway or right of way= +0.2.

Outlet density:

Average expert efficacy rating for reducing binge drinking among adults: 3.825

Implementation rating index:

The ratio of licensed outlets per capita was rescaled to a range from 0 to 1.

Responsible beverage service training:

Average expert efficacy rating for reducing binge drinking among adults: 2.85

Implementation rating index:

Any mandatory responsible beverage service (RBS) training= +0.4; law applies to managers and server/sellers= +0.1; law applies to all new and existing establishments= +0.2; law applies to on-premises establishments= +0.2; law applies to off-premises establishments= +0.1; voluntary RBS or no policy= 0.0.

Retail price restrictions:

Average expert efficacy rating for reducing binge drinking among adults: 3.6

Implementation rating index:

Prohibit free beverages= +0.1; prohibit reduced price (prohibit reduced price at any day or time= +0.4, or prohibit reduced price at specified day or time= +0.2, or no restrictions= +0.0); prohibit unlimited beverages—fixed price, fixed time= +0.2; prohibit increased volume without increasing the price= +0.1; prohibit selling two alcoholic beverages for the price of one= +0.2.

Sales or service to intoxicated patrons prohibited:

Average expert efficacy rating for reducing binge drinking among adults: 2.975

Implementation rating index:

Presence of policy= +0.3; presumptive evidence based on BAC= +0.3; evidentiary standard: (negligence= +0.4, else silent in evidentiary standard= +0.2, else criminal negligence= +0.1, else knowledge= +0.0).

Sobriety checkpoints:

Average expert efficacy rating for reducing binge drinking among adults: 2.6

Implementation rating index:

Allowed under state law, no need for repeated judicial review, able to stop cars avoiding checkpoints= 1.0; checkpoints legally allowed but cannot stop cars avoiding checkpoints= 0.7; legally allowed but must obtain court permission before each roadblock (e.g., New Hampshire)= 0.5; illegal under state law= 0.0.

Social host laws (civil liability):

Average expert efficacy rating for reducing binge drinking among adults: 2.9

Implementation rating index:

Social host/civil liability for serving to youth (youth score was added to score for serving to intoxicated adults): [a policy holding individuals liable for serving alcohol to youth within common law if no restrictions on evidentiary standards or damage limits, and host liability is not limited to situations where damage was caused by guest's driving= 0.6 (for youth score); a statute holding individuals liable for serving to underage guests, and policy was not limited to situations where damage was caused by guest's driving= +0.1; statutory law exists without limits on damages for serving to youth= +0.2; statutory law exists without limits on standards for evidence, or statute specifies negligence, and no need to prove intoxication= +0.3].

Social host/civil liability for serving to intoxicated guests, must include adults (adult score was added to score for serving to youth): [a common law policy holding individuals liable for serving alcohol to intoxicated guests if no restrictions on evidentiary standards or damage limits, and host liability is not limited to situations where damage was caused by guest's driving= 0.4 (for adult score); evidentiary standards for a statutory policy holding individuals liable for serving to intoxicated adult guests (statute does not establish any evidentiary standards, with exception of negligence standard= +0.2, else statute establishes reckless standard and/or clear and convincing evidence= +0.1); a statutory policy holding individuals liable for serving to intoxicated guests without limits on damages (policies with knowledge evidentiary standard will not get this point)= +0.1; a statutory policy holding individuals liable for serving to intoxicated guests, and the policy does not limit host liability to damage caused by the guest's driving (policies with knowledge evidentiary standard will not get this point)= +0.1].

Youth and intoxicated/adult scores were added together to establish social host/civil liability final score.

State alcohol control systems (monopoly):

Average expert efficacy rating for reducing binge drinking among adults: 3.975

Implementation rating index:

Control State or not (i.e., any monopoly system)= +0.3, not a control state= 0.0; state sells liquor at the retail level= +0.2; the range of retail (shelf) price among states that sell liquor at the retail level were rescaled into quartiles so the states with the highest prices received the highest scores from +0.0 to +0.3; states control wholesale wine sales (in addition to liquor)= +0.1; states sell wine at retail level= +0.1.

Taxes (beer only for the purposes of 50-state analysis):

Average expert efficacy rating for reducing binge drinking among adults: 4.65

Implementation rating index:

The range of state composite beer taxes (sum of volume-based, ad valorem and sales taxes for beer) was rescaled to a range from 0 to 1.

Use alcohol/lose license (youth):

Average expert efficacy rating for reducing binge drinking among adults: 1.45

Implementation rating index:

Any use/lose policy= +0.3; type of violation, whether mandatory, age to whom mandatory law applies: includes possession, mandatory suspension for all ages until age 21= +0.6, else involves possession and mandatory suspension for ages 18 until 21 but non-mandatory until age 18= +0.4, else involves possession and mandatory suspension for those up to ages 18 or 19 only but non-mandatory until age 21=

+0.3, else includes possession, but non-mandatory for all ages until age 21 +0.1, else +0.0; minimum length of suspension ≥ 90 days +0.1; no law = 0.0.

Wholesale price restrictions:

Average expert efficacy rating for reducing binge drinking among adults: 3.6

Implementation rating index:

Ban on volume discounts (complete ban on volume discount= +0.6, else volume discounts are restricted= +0.2, else no restrictions on volume discount= +0.0); minimum markups required or ban on sale below cost= +0.1; post and hold requirements (if hold is ≥ 30 days= +0.2, else if hold is between 8 and 29 days= +0.1, else if hold is < 8 days or no post and/or hold requirements= +0.0); credit restrictions exist= +0.1.

Zero-tolerance laws:

Average expert efficacy rating for reducing binge drinking among adults: 1.4

Implementation rating index:

Mandatory ALR or suspension: (revocation for all (i.e., including first) offenses= +0.6, else revocation for multiple offenses only= +0.2, else suspension for all (i.e., including first) offenses= +0.5, else suspension for multiple offenses only= +0.1); minimum length of ALR for earliest offense to which ALR applies ≥ 90 days= +0.3; any mandatory criminal sanctions including jail, fine, community service= +0.1.

Appendix C

Data sources for provisions of 29 alcohol control policies, 1999–2011

Data source	Policies informed by the data source, and whether it was the primary or a secondary data source for a policy
Alcohol Policy Information System (APIS), National Institutes for Alcohol Abuse and Alcoholism; www.alcoholpolicy.niaaa.nih.gov/	Primary: alcohol taxes; minimum legal drinking age; keg registration; house party laws; minimum age of server/seller; state monopoly; false ID laws; restrictions on days of sale; responsible beverage service training; use alcohol/lose license for youth; open container; furnishing alcohol to minors; fetal alcohol syndrome warning signs Secondary: blood alcohol concentration 0.08 laws
Substance Abuse and Mental Health Services Administration; Sober Truth on Preventing Underage Drinking Act, <i>Report to Congress on the Prevention and Reduction of Underage Drinking</i> , 2011	Primary: wholesale price restrictions; retail price restrictions; social host/civil liability for serving to youth; dram shop/commercial liability for serving to youth; direct shipment and home delivery
National Highway Traffic Safety Administration (NHTSA); <i>Digests of Impaired Driving</i> , (formerly <i>Digest of State Alcohol-Highway Safety Related Legislation</i>); Years 1999–2002, 2006, 2007, 2010, 2011	Primary: administrative license revocation; blood alcohol concentration of 0.08; zero-tolerance driving laws for youth Secondary: ignition interlocks; social host/civil liability; dram shop/commercial liability
Alcohol policy consultations; data collected for the CDC	Primary: dram shop/commercial liability for serving to intoxicated adults; sales to intoxicated patrons prohibited
National Alcohol Beverage Control Association (NABCA) <i>Survey Books</i> ; Years 1999, 2002–2011	Primary: alcohol beverage control agencies; local option permissible Secondary: outlet density; minimum age of server/seller
The Beverage Information Group; <i>Fact Books</i> , Years 1999, 2001, 2003, 2005, 2007, 2009, 2010, 2011	Primary: outlet density; restrictions on hours of sales Secondary: taxes
Insurance Institute for Highway Safety; <i>DUI/DWI</i> , June 2010, January 2011, and December 2011 www.iihs.org/laws/dui.aspx	Primary: ignition interlocks Secondary: administrative license revocation
Insurance Institute for Highway Safety; <i>Effective Dates of Graduated Licensing Laws</i> , May 2011	Primary: graduated driver licensing
Insurance Institute for Highway Safety; <i>State Court Decisions on the Constitutionality of Sobriety Checkpoints</i> . Website accessed July 2011: www.iihs.org/laws/checkpoints.html	Primary: sobriety checkpoints
National Highway Traffic Safety Administration; <i>NHTSA Research Report: Preventing Over-Consumption of Alcohol – Sales and “Happy Hour” (Drink Special) Laws</i> , 2005	Secondary: retail price restrictions
National Restaurant Association Educational Foundation; <i>Servsafe Alcohol®, Key Laws and Regulations</i> , 2005; www.servesafe.com	Secondary: dram shop
National Alcohol Beverage Control Association; unpublicized NABCA data	Secondary: state monopoly
National Highway Traffic Safety Administration; <i>NHTSA Legal Research Report: Laws Prohibiting Alcohol Sales to Intoxicated Persons</i> , 2007	Secondary: sales to intoxicated patrons prohibited
Mothers Against Drunk Driving; <i>Status of Ignition Interlock Laws</i> ; website accessed July 2011; www.madd.com	Secondary: ignition interlocks
Tax Foundation; <i>State Sales, Gasoline, Cigarette, and Alcohol Tax Rates by State, 2000–2010, 2011</i> . www.Taxfoundation.org	Secondary: taxes
Federation of Tax Administrators; <i>State Tax Rates on Distilled Spirits, Wine, and Beer</i> , Years 2000, 2003, 2004, 2006, 2007, 2008, 2010; www.taxadmin.org ; data hosted at Tax Policy Center: www.taxpolicycenter.org	Secondary: taxes

Data source	Policies informed by the data source, and whether it was the primary or a secondary data source for a policy
<i>The Tax Burden on Tobacco, Historical Compilation</i> , Volume 46, 2011; www.nocigtax.com	Secondary: taxes
Federation of Tax Administrators; <i>States Sales Tax Rates</i> , 2011; www.taxadmin.org	Secondary: taxes
Thomson Reuters; WestlawNext; next.westlaw.com	Secondary: tax; wholesale price restrictions; retail price restrictions; keg registration; social host; dram shop; minimum age of server/seller; responsible beverage service training; sales to intoxicated patrons prohibited; zero-tolerance driving laws for youth; administrative license revocation; ignition interlocks; blood alcohol concentration of 0.08; direct shipment and home delivery; fetal alcohol spectrum syndrome warning signs