

Public Health Law Clinic
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TESTIMONY IN OPPOSITION TO HOUSE BILL 787
Alcoholic Beverages – Retail Delivery – Alterations and Third-Party Delivery Service Permit
Economic Matters Committee, February 20, 2023

The most pressing public health concern stemming from House Bill 787 is the potential for an increase in underage access to alcoholic beverages. The Centers for Disease Control links underage drinking to a multitude of issues including: higher rates of school absences and lower grades; unprotected sexual activity; disruption of normal growth and brain development; physical and sexual violence; increased risk of suicide and homicide; alcohol-related motor vehicle crashes and other unintentional injuries, such as burns, falls, or drowning; misuse of other substances; and alcohol poisoning.¹ People who use alcohol when they are young are more likely to develop alcohol dependency later in life.²

House Bill 787 creates a new avenue for underage persons to access alcoholic beverages, without providing needed resources or strategies necessary to conduct youth-access enforcement operations.

Since the March 2020 Executive Order expanding permissible alcohol delivery during COVID and the current law passed as House Bill 12 in 2021 that will soon sunset, local alcohol enforcement agencies and officers have struggled to keep up with the influx of new delivery licensees. Liquor boards saw the number of licensees permitted to deliver alcohol directly to consumers expand from primarily liquor stores to all bars, taverns, and restaurants that would normally only be selling alcoholic beverages for on-premises consumption. With no increase in personnel or funding nor an effective strategy to conduct enforcement, there has been little to no enforcement of youth-access provisions.

In conversations with members of local liquor enforcement entities from across the State, enforcement agents reported concerns not only with the increase in licensees but also with the additional complexity and cost of conducting enforcement operations. When observing delivery transactions, it is difficult to determine whether a delivery includes an alcoholic beverage and whether the person accepting the order is over age 21. Instead of observing, an agency could conduct sting operations but would be required to order both food and drink, which would increase the cost of these underfunded operations significantly. Moreover, finding a “false” delivery location for each potential retailer’s delivery zone may be impossible.

¹ <https://www.cdc.gov/alcohol/fact-sheets/underage-drinking.htm>; U.S. Department of Health and Human Services (HHS), Office of the Surgeon General. *Facing addiction in America: The Surgeon General’s report on alcohol, drugs, and health*, Washington, DC: HHS, 2016.; Miller JW, Naimi TS, Brewer RD, Jones SE. *Binge drinking and associated health risk behaviors among high school students*. *Pediatrics* 2007;119:76–85.; Esser MB, Guy GP, Zhang K, Brewer RD. *Binge drinking and prescription opioid misuse in the U.S., 2012-2014*. *Am J Prev Med* 2019;57,197-208.;

² Buchmann AF, Schmid B, Blomeyer D, et al. *Impact of age at first drink on vulnerability to alcohol-related problems: Testing the marker hypothesis in a prospective study of young adults*. *J Psychiatr Res* 2009;43:1205-1212.

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Maintaining a sufficient enforcement presence to deter alcohol sales to minors requires significant resource when looking solely at brick-and-mortar sales. Local enforcement agencies are not in a position to expand dramatically to third-party delivery. Without enforcement, violations will not be identified or punished, and the deterrent effect will be non-existent.

Retail alcohol licenses are expensive and scarce in many jurisdictions. As a result, the deterrent effect of enforcement is huge—retailers do not want to risk a license suspension or revocation. There is too much at risk. A \$1,000 license with \$500 renewal does not create that same deterrent effect—delivery licensees do not have as much at stake and yet they are the only party that can be punished for sales to minors on delivery orders. A stronger bill would tie violations to the retailer licenses, putting the retail license in jeopardy for unlawful sales made by third party vendors with whom the retail contracts for delivery.

Because the bill does not sufficiently consider youth-access implications of expanded alcohol delivery, we oppose House Bill 787.

This testimony is submitted by the Public Health Law Clinic at the University of Maryland Carey School of Law and may not represent the position of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.