

## R SHEET ON ALCOHOL LICENSING QUANTITY CAPS

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### BACKGROUND

**T**he COVID-19 pandemic, like any largescale and unexpected event, caused a host of policy responses and changes as lawmakers sought to respond to the ways in which the virus impacted modern life.

The alcohol sector likely saw as many changes as any sector, largely due to the fact that much of the legal structure governing alcohol sales and access is based on rules created upward of a century ago.

The most publicized reforms have been states and localities allowing innovations like to-go cocktails from restaurants or alcohol delivery to our doors. But the need to modernize alcohol rules in the new normal of COVID-19 extend to other realms, as well.

A robust licensing system has been used to regulate and govern alcohol since colonial times in America. Today, producers, distributors and all varieties of retailers must obtain specific types of licenses to operate. These licenses are used to control how, when and where alcohol is produced, distributed or sold.

In addition to the licenses themselves, governments often implement various restrictions on the *availability* of licenses, such as limiting what types of entities can possess them or how many licenses a single entity can own at one time.

While theoretically implemented to address potential negative externalities from alcohol, these restrictions mostly serve to create a host of unintended consequences that arbitrarily limit efforts to modernize alcohol rules.

### CURRENT DEBATE

Governments utilize different types of restrictions—often called “caps”—to limit the availability of alcohol licenses. For instance, there are population-based restrictions,

### SUMMARY

- Alcohol licensing regimes have been present in America since colonial times.
- Governments often restrict or “cap” the number of licenses that a single entity can own or possess.
- Licensing caps create a host of unintended consequences while not delivering noticeable safety benefits.
- Policymakers should seek to reform and modernize alcohol licensing caps to provide more retailing options for American consumers.

which limit the number of licenses available in a certain region based on the population. There are also residence-based restrictions, which only allow a residence of a state or region to possess an alcohol license.

A lesser known—but important—type of licensing restriction is the ownership-quantity cap. This limits the number of licenses one entity can own or possess at a single time.

Ownership-quantity caps are often implemented to prevent large out-of-state entities from owning alcohol licenses in certain states. The result is that most types of grocery stores are unable to sell alcohol alongside the food items they normally offer in those areas.

Unfortunately, these restrictions create handicap efforts to modernize alcohol laws in the 21<sup>st</sup> century.

### ACTION ITEMS

#### Modernize alcohol licensing cap systems

In order to understand how to best reform outdated alcohol rules, lawmakers must understand what unintended consequences arbitrary limits on license availability create.

A strict ownership-quantity cap that effectively prevents grocery stores and other chain retailers from selling alcohol limits the feasibility of alcohol delivery reforms as well. Grocery stores already have sophisticated systems in place to deliver groceries, and therefore are the entities best equipped to deliver alcohol to consumers as well. During COVID-19, ownership-quantity caps are preventing many businesses from partaking in the robust alcohol delivery system that consumers desire. Lawmakers should seek to eliminate or reform these caps to allow more businesses to sell and deliver alcohol.

### Prioritize evidence-based policymaking

Ownership-quantity caps are often justified as a means to ensure that alcohol is sold and consumed responsibly. While it is conceptually unclear how the number of licenses an entity possesses would affect their ability to ensure safe and secure alcohol sales, the empirical evidence also does not demonstrate any health and safety benefits from caps.

For example, Massachusetts, New Jersey and Maryland all have ownership-quantity restrictions for alcohol retailers, but there is little correlation among these states in categories like alcohol consumption levels or underage and binge drinking rates.

The Centers for Disease Control and Prevention (CDC) [classifies](#) Massachusetts and New Jersey among the higher-level consumption states for alcohol, while Maryland is toward the middle. Massachusetts and New Jersey are also close to or above average in [binge drinking rates](#), while Maryland is below average. Massachusetts (28.7 percent) and New Jersey (18.8 percent) are at or above average for [underage drinking](#), whereas Maryland is once again below.

This lack of correlation in drinking rates among states with ownership-quantity caps undermines arguments of its efficacy as a public safety tool.

### Encourage all types of retailing options

In our modern marketplace, consumers prefer a bevy of options for purchasing any and all products. Unsurprisingly, [polling](#) has suggested that consumers overwhelmingly favor allowing grocery stores and other multi-location retailers to sell alcohol.

America's dynamic and diverse alcohol market can support many different types of retailers, and lawmakers

should seek opportunities to expand rather than limit retailing options in the COVID-19 new normal.

### MORE RESOURCES

C. Jarrett Dieterle, "Revisiting Alcohol Licensing Caps in 21st Century America," *R Street Policy Study* No. 228, May 2021. [https://www.rstreet.org/wp-content/uploads/2021/05/29April21\\_Final\\_RSTREET228.pdf](https://www.rstreet.org/wp-content/uploads/2021/05/29April21_Final_RSTREET228.pdf).

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