



November 18, 2009

121 S Pinckney St., Suite 300
Madison, Wisconsin 53703
Phone (608) 256-7555
Toll-Free (888) 856-7555
Fax (608) 256-7666
www.wpmca.org

To the Members of the ALRC

RE: Prohibition on Sale of Alcohol to Habitually-Intoxicated Persons
Legistar No. 16302

The Wisconsin Petroleum Marketers & Convenience Store Association is a statewide trade association. As such, we primarily work on issues that have application across Wisconsin, such as proposed state legislation. However, our membership asked us to get involved in this issue for two reasons: 1) several of our members do business in Madison; and, 2) the City of Madison often leads the state in these issues.

Our members include the chains of Open Pantry, Stop-N-Go, PDQ, and Kelley Williamson. But we also represent single store retailers such as Hilldale Shell, Genin's Mobil on University Avenue and Wayne's Automotive on Cottage Grove Road. All of the chains have some form of mandatory ID check. For example, Kelley Williamson does it for every single customer, PDQ for anyone under the age of "30." All of our members support including a mandatory ID check as part of this proposed ordinance.

I tell you this, because I really want to stress we are responsible retailers. We take seriously our obligations to the community and our responsibilities for having a liquor license. Every one of the members I spoke with requires extensive training for their clerks before they may sell alcohol. Kelley Williamson requires every single clerk take and pass the Responsible Beverage Service training. Many have their own secret-shopper program. Therefore, it's natural that we are part of the Madison Alcohol Advisory Council, that we're part of the group working to create a Responsible Retailers Program with Brad Krevor and that we support the *Concept* of banning sales to Habitual- Intoxicants.

However, the devil is in the details. We are not yet ready to support the draft ordinance before you. It has four (4) particular problems and we ask that the ALRC not forward it to the Common Council at this point, but allow us more time, so the MAAC and the ALRC can come up with an ordinance acceptable to all parties.

1. **Only affects Class A establishments.** The ordinance is titled Habitually Intoxicated Persons. It's proposed, "*in the interest of the health, welfare and safety of the citizens of Madison*" and "*it's a reasonable exercise of the City's police powers to prohibit a retailer from selling alcohol beverages to these habitually intoxicated persons*" So why then does it only apply to Class A establishments? If the purpose is to prohibit these individuals from purchasing ANY alcohol, especially BEFORE they become intoxicated,

then it must logically apply to every establishment that sells alcohol – Class A and Class B alike.

2. **Disproportionate Penalties.** My reading of the draft is that there is a \$500 fine for retailers, and violation of the ordinance can be a reason to suspend, revoke or not renew the license. Basically, we can be put out of business for selling alcohol to someone who is of legal drinking age, not intoxicated at the time of sale – but on a list. Yet the habitual intoxicant, who will be notified of his/her status when the police charge him/her with a 6th violation, will only be fined \$300. Instead, there should be graduated penalties for both the habitual intoxicant and the retailer. The first time a retailer errs should result in only a warning letter.
3. **List must be delivered to Retailers.** Only a detailed list, with pictures, that arrives quickly to the retailer can be effective in this endeavor. Therefore, the ordinance must be explicit as to how the list is comprised and delivered. It must include pictures and it must be delivered by snail mail to the retailer.
4. **Needs a sunset.** You just forwarded, and the Common Council passed, section 38 07(15) that prevents the sale of (hard) liquor from establishments that sell motor vehicle fuels. Our complaint there, as here, is that this is an untested concept. There's no proof that banning gas stations from selling hard-liquor will in any way impact drunk driving. Likewise, we don't really know if this list of habituals will actually impact the problem – especially if the habitual can still legally buy alcohol from other establishments. Therefore, we request a review of the ordinance in two years time, and a sunset pending proof that it is effective.

In conclusion, I'd like to point out that this process is a lot like herding cats – meaning getting all the interested Class A retailers together, organizing the MAAC (Madison Alcohol Advisory Council), meeting with Katherine Plominski, and crafting an ordinance acceptable to all parties is a lot like herding cats. So, please give us more time to come up with a compromise ordinance - we cannot support the draft before you today.

Thank you for considering my comments,

A handwritten signature in black ink that reads "Jennifer Badeau". The signature is written in a cursive, flowing style.

Jennifer Badeau
Director of Regulatory Affairs