

MADISON ALCOHOL ADVISORY COUNCIL

To the Members of the ALRC

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

This letter is sent on behalf of the Madison Alcohol Advisory Council ("MAAC"), an organization representing the interests of Madison's alcohol beverage industry and, specifically, the Class A retailers of alcoholic beverages in the City of Madison. Class A retailers are those which sell packaged goods for off-premise consumption, not products sold by the glass. The MAAC membership includes not only the independent operators, but also convenience stores, grocers, wholesalers and brewers. The MAAC was formed in order to better articulate the needs and concerns of the retail establishments. Their products are sold to many, many citizens in the City of Madison which enjoy them in a responsible fashion.

The MAAC strongly supports the City's efforts to curb the adverse impacts from habitually-intoxicated persons. To that end, we support proposed Section 38.12(1) which declares the policy of the City to curb alcohol consumption by habitually-intoxicated persons. Please consider MAAC to be a positive and active participant in the effort to further the City's policy to curb abusive behavior from habitually-intoxicated persons.

That being said, we do not believe that the proposed ordinance accomplishes the purposes outlined in its Statement of Purpose. In no particular order, the MAAC has the following concerns:

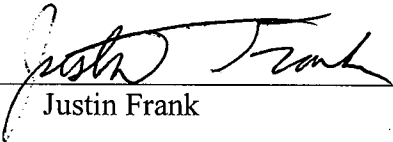
1. It targets the wrong parties. The proposed ordinance only targets the Class A licensees. The prohibition should extend to: (a) the habitually-intoxicated persons themselves; and (b) those who procure alcohol on behalf of the habitually-intoxicated persons. Isolating only the clerk at the Class A package-good store avoids the comprehensive nature of the problem. Habitually intoxicated individuals will still panhandle, litter and engage in obnoxious behavior if they are allowed and indeed encouraged, to drink alcohol by the glass. It takes six convictions to get on the list; why shouldn't an attempt to buy by someone on the List, in knowing and intentional violation of the ordinance, be allowed by the City and the penalty shifted to the licensee?
2. The maintenance and distribution of the list is not mandatory. The Police Department may, or may not, distribute the list. The type of list is not identified. Clearly, the list must have a picture of the known offender with the reasonably accurate likeness in order to be effective at all. In addition, the police should distribute this list in order to better know the licensees so that there is a greater trust and communication between the Police Department and the Class A licensees. This is what is done in Green Bay and is, in our opinion, the single most important factor in the success of the Green Bay program.

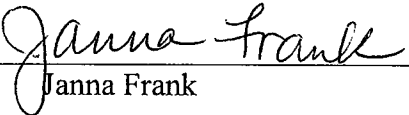
3. The ordinance should have a review and sunset provision. A sunset provision will enable the City and the participants in the program to determine whether or not it is actually working. Cluttering the Madison General Ordinances with prohibitions that not enforced or are not working properly is counterproductive.
4. There should be graduated penalties. Currently, the ordinance reads that a first defense to the Class A licensees (and to no one else) is a \$500 fine. Penalties in this situation for all those who may be violating the ordinance, should be incremental in nature and include at least a warning and education before penalties are assessed.
5. There should be a diversion to social service. This ordinance is cast entirely to as a criminal ordinance focusing solely on the Class A licensees who are otherwise dispensing legal products to people of appropriate age. This municipal response should include diversion to treatment or another program designed to reduce or eliminate the risk presented by the habitually intoxicated.

Notwithstanding these concerns about the proposed ordinance, MAAC is willing to sit down with the Alcohol coordinator for the City and other necessary parties to work out an ordinance which targets the problem as identified and has a good chance of solving the problem. We are enclosing with this letter, an article from the November, 5th edition of the Isthmus which highlights the MAAC concerns. Please let us know if you have any questions. We will be present at the ALRC meeting on November 18, 2009 to answer questions concerning the MAAC approach.

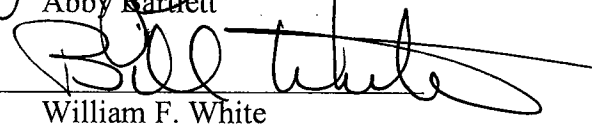
Sincerely,

MADISON ALCOHOL ADVISORY COUNCIL

By: 
Justin Frank

By: 
Janna Frank

By: 
Abby Bartlett

By: 
William F. White

Enclosure

ISTHMUS | The Daily Page

Cracking down on sales to chronic drunks is misguided strategy

Address problem, not providers

by Emily Mills

on Thursday 11/05/2009

I've been thinking a lot lately about how Wisconsin deals with citizens who abuse alcohol. With our dismal drunk-driving statistics, arguments over whether or not to allow children into bars with their folks, and proposals on everything from the size of liquor bottles that may be sold to the taxes placed on beer, the regulation of alcohol is a hot topic these days.

One recent idea comes courtesy of Madison Ald. Michael Schumacher, a member of the Alcohol License Review Committee, and Mayor Dave Cieslewicz. They've asked to create a public "no-serve list" that would effectively ban chronic drunks from buying alcohol from any retail establishment in town.

On the surface, it seems like an understandable response to the burden placed on police and taxpayers by the estimated 100 or so habitual offenders who cause the most trouble. These are people who get themselves arrested or are convicted of a crime while drunk at least six times in a given 180-day period. It'd be hard to argue that's not a problem in need of a solution.

But I don't think a blanket ban on alcohol sales is that solution.

I have no doubt that Schumacher and Cieslewicz are looking for ways to help the community as well as those people who clearly have a serious addiction.

But a "no-serve" list, first of all, places an undue burden on retailers seeking to avoid \$500 fines. In a *Wisconsin State Journal* article on the proposal, mayoral aide Joel Plant was quoted as saying, "It's very difficult to enforce. We expect the industry to do the majority of heavy lifting."

This amounts to punishing legitimate businesses for the actions of a few. Retailers are already allowed to create and enforce their own "no-serve" lists. Taking that to the extreme and turning it into a law, with penalties and fees, is a misdirected attack.

And prohibition laws in general tend to give rise to new sorts of problems. I'm not suggesting that banning 100-odd people from buying liquor in Madison would lead to chronic drunks waving Tommy guns from the rear windows of speeding Model Ts. But, if history is any guide, blanket bans just push the issues underground and around the corner. They don't tend to be genuine fixes.

Beyond the logistical difficulties of creating, maintaining and enforcing such a list, the question looms: What else do we do with these chronic abusers? And shouldn't we be doing that instead?

Yes, the individuals on this list have doubtless had other chances, which they have failed to seize. But still, in a civil society, it is never appropriate to write off any whole group as lost causes.

I don't believe in completely absolving people of responsibility for their behavior. There should be serious repercussions for causing harm to those around you.

But appropriate punishment becomes trickier when addiction enters the equation. These people are sick and in need of treatment. Simply barring them from walking into a store and buying their own booze isn't going to do much to treat their underlying illness.

In fact, to really get at the root causes of the issue, we'd need to address our deeply ingrained attitudes about alcohol. We have to face up to the fact that our culture tends to encourage things like binge drinking and looking the other way

at those who exhibit signs of serious alcohol abuse.

Foisting responsibility onto the sellers isn't the answer. Our time, money and energy would be better spent focusing on the buyers — developing more effective methods of early education, treatment when needed, and real and binding consequences for when the law is broken.

It's good that we're talking about the problem, but we need to look past the sales counter for the solutions.

Emily Mills is a local writer and musician. She blogs at www.lostalbatross.com and *TheDailyPage.com*.