



## Office of the Mayor

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December 17, 2014

To: Members of the Alcohol License Review Committee

From: Mark Woulf, Food and Alcohol Policy Coordinator

Re: Class A Uniform Conditions Policy Proposal

### Background

There is long history and interest of the City of Madison in deploying a combination of ordinances and policies relating to alcohol retail sales in order to reduce the prevalence of “street” alcohol consumption and abuse. A couple of local studies highlighted the need for the city to address the issue in some way, including a 2007 United Way study that showed just over 60 people cost the city and the county over \$3 million in just one year in medical treatment, police and fire department time, detoxification visits, and other health and human services.

At that time, the City of Madison sought to develop a policy that assisted in breaking the cycle of street alcoholism by making certain types of products more difficult to attain. The resulting conversation, with service providers, industry representatives, retailers, and Madison Police, led to the development of the Habitually Intoxicated Persons (HIP) Ordinance.

After a lengthy community conversation and debate, the HIP ordinance was enacted to address the problem of a few individuals expending a disproportionate amount of community resources due to alcohol abuse. Habitually Intoxicated Persons (HIPs) are defined, under ordinance, as individuals who accumulate six or more alcohol-related convictions within a 180-day period. Once on the list, Class A (retail) establishments are prohibited from selling to those individuals.

Part of the direction from the city as a part of developing the ordinance was to look at product bans in the form of license conditions, but only in certain areas, mostly within the core downtown. A review of the police calls-for-service derived from HIPs indicated that most originated in the downtown area. In turn, the city worked with existing retailers, and new retailers coming into the downtown core from then on, to ban certain products, mostly single-serve products as a part of the license conditions.

Recently, the city replaced the Alcohol License Density Ordinance. The conversation centered on regulations related to Class B licensed establishments. The direction from the Alcohol License Review Committee was to explore options to regulate Class A licenses in an appropriate way. Staff reviewed options and looked at our existing Class A establishments:

Current Class A Status	#	Regs
Gas Stations	51	No intoxicating liquors allowed (MGO).
Pharmacies	6	Not allowed in Downtown Overlay Dist.
Convenience Stores (no gas)	9	Not allowed in Downtown Overlay Dist.
Grocery Stores	31	None.
Full-Service Liquor Stores	25	Not allowed in Downtown Overlay Dist.
Other (specialty stores, etc.)	5	
<b>Total</b>	<b>126</b>	

For the recent concern of variability in license conditions for Class A Establishments, staff reviewed all license conditions for Class A Establishments within the city. Attached is a list of relevant conditions on Class A license by aldermanic district.

Current conditions within the downtown are much more consistent than in other areas of the city. However, not all Class A conditions are the same in all downtown districts. In the whole, conditions within the downtown area are more restrictive than in other areas of the city. This was done as a matter of policy based on the above discussion. Below is the most common set of conditions in the downtown core:

- 1) Shall not sell, dispense, or give away fermented malt beverages in the original container in amounts less than the amount contained in a six pack of bottles or cans;
- 2) Malt based flavored coolers may not be sold, dispensed, or given away in the original container in amounts less than a four pack of bottles or cans;
- 3) Shall not sell, dispense, or give away intoxicating liquor in the original amounts of two hundred milliliters or less in volume. "Intoxicating liquor" shall not include wine in the original container with an alcohol content of 15% or less.
- 4) Shall not sell, dispense, or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two or more years, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.

Other license common license conditions within the city:

- 1) No sale of single bottles or single cans of beer or fermented malt beverages (many different variations).
- 2) No sale of 40 ounce bottles of fermented malt beverages or beer.
- 3) No sales of intoxicating liquor (mostly C-Stores and gas stations).
- 4) Various limitations on display or floor space for alcohol sales.

### **Recommendations**

1) Develop a policy that applies uniform conditions to all Class A Establishments within a geographic area that encompasses, at a minimum, the Central Commercial Business District. One suggestion is to apply the uniform conditions within all aldermanic districts that represent areas of the downtown (Districts 2, 4, 5, 6, 8, and 13). Or, it can be done by Police sectors. This warrants further discussion.

Committee members should decide on the type of conditions and the impact on sales and availability of certain products to determine a set of uniform conditions that reflect industry realities of production. Staff recommends the following uniform conditions for all Class A licenses within the designated downtown area:

- 1) Shall not sell, dispense, or give away fermented malt beverages in the original container in amounts less than the amount contained in a six pack of bottles or cans;
- 2) Malt based flavored coolers may not be sold, dispensed, or given away in the original container in amounts less than a four pack of bottles or cans;
- 3) Shall not sell, dispense, or give away intoxicating liquor in the original amounts of two hundred milliliters or less in volume. "Intoxicating liquor" shall not include wine in the original container with an alcohol content of 15% or less.
- 4) Shall not sell, dispense, or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two or more years, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.

2) Develop a policy in the form of license condition guidelines for the Alcohol License Review Committee, similar to the Operator's License guidelines, to be used to apply conditions on all new Class A licenses across the city. Based on many ALRC conversations and in the interest of limiting ease of access to cheap, high alcohol-content products, staff recommends that all gas stations, convenience stores, and pharmacies that are outside of the designated downtown area be subject to the following standard conditions:

- a) No sale of single bottles or single cans of beer or other fermented malt beverages.
- b) No sale of intoxicating liquor (wine only).
- c) Beer display shall be limited to one cooler accessible by no more than two doors and no dry display space.
- d) Wine display shall be limited to 16' by 72' of shelf area.
- e) Shall not sell, dispense, or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two or more years, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.

3) At license renewal time in 2015, standardize all Class A license conditions within the designated downtown area based on the conditions in Recommendation #1.

4) Although not specific to this proposal, there is another trend that is worth mentioning and warrants attention and consideration for future alcohol license policy. In recent months, several Class A Licensed Establishments, or proposed retail-based establishments that traditionally would apply for Class A licenses, are choosing or exploring the "switch" to a Class B Combination License. There are different reasons for each situation, but as a generalization, most are interested in expanded tastings or serving at their respective locations, above and beyond that which is allowed under a Class A License.

Retail ("carry-out" sales) sales are allowable under State Statutes for Class B Combination licensed establishments. However, Class B Combination licenses are the only license under State Statutes in which the city has a limited number of licenses to issue per capita. This memorandum does not suggest a direction for the exploration of policy, but consideration should be given to the trend of traditional Class A licensed establishments obtaining or exploring Class B Combination licenses, and begs the question as to whether there should be policies developed to determine the appropriateness of this practice.

District	Relevant Conditions (Class A)	Gay	Liq	C-S	Gas	Phm
1	1) No sale of single bottles or single cans of beer or fermented malt beverages. 2) No sale of 40 ounce bottles of fermented malt beverages. 3) No sale of fortified wines. 4) Liquor sales limited to wine only.				X	
2	1. Shall not sell, dispense or give away fermented malt beverages in the original container in amounts less than the amount contained in a six pack of bottles or cans; 2. Malt based flavored coolers may not be sold, dispensed or given away in the original container in amounts less than a four pack of bottles or cans; 3. Shall not sell, dispense or give away intoxicating liquor in the original container in amounts of two hundred (200) milliliters or less in volume. 'Intoxicating liquor' shall not include wine in the original container with an alcohol content of 15% or less by volume; 4. Shall not sell, dispense or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two years or more, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.			X		

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4

X

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4	<p>Premises: Entire one-floor building. Off-premises sales only.</p> <p>The conditions are:</p> <p>1. Sales shall be limited to beer, wine and fermented beverages only.</p> <p>2. No sale of beer or fermented malt beverages in less than a six-pack of bottles or cans.</p> <p>3. No sale of 40 ounce containers of fermented malt beverages.</p> <p>4. Beer display area limited to one cooler accessible by no more than two doors.</p> <p>5. Wine display area limited to 16' x 72" shelf area.</p>					X

	<p>1. Shall not sell, dispense or give away fermented malt beverages in the original container in amounts less than the amount contained in a six pack of bottles or cans; 2. Malt based flavored coolers may not be sold, dispensed or given away in the original container in amounts less than a four pack of bottles or cans; 3. Shall not sell, dispense or give away intoxicating liquor in the original container in amounts of two hundred (200) milliliters or less in volume. 'Intoxicating liquor' shall not include wine in the original container with an alcohol content of 15% or less by volume;</p> <p>4. Shall not sell, dispense or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two years or more, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.</p>				X	
4	<p>No sale of single bottles or cans of beer or fermented malt beverages; No sale of 40 ounce bottles of fermented malt beverages; No sale of fortified wines; Liquor sales limited to wine and wine coolers only.</p>				X	
5	<p>1) No sale of single cans or single bottles of beer or fermented malt beverages. 2) Exclusion from previous condition for specialty imported beers and microbrews.</p>				X	
5	<p>1. No liquor sales - beer and wine only. 2. No sale of single serve bottles or cans larger than 25 ounces in size. 3. The floor display shall be as submitted. 4. No keg sales.</p>	X		X		



6	<p>1) No sale of single cans or single bottles of beer or fermented malt beverages.</p> <p>2) No more than three coolers will be used for alcohol sales.</p> <p>3) No space on the floor will be used for alcohol sales.</p> <p>4) License will automatically be separated during annual renewal in 2014.</p> <p>5) License will automatically be separated during annual renewal in 2015.</p> <p>6) The applicant, city, local business association, neighbors, SASYMA and other interested parties will work together to address negative alcohol behaviors in Wirth Ct if problems continue.</p>				
6	<p>1. No sale of beer or fermented malt beverages in amounts less than a 6 pack of no less than 12 oz. each.</p> <p>2. The liquor portion of the license allows sales of wine only.</p> <p>3. No fortified wines are allowed.</p>				X
8	<p>1. Shall not sell, dispense or give away fermented malt beverages in the original container in amounts less than the amount contained in a six pack of bottles or cans</p> <p>2. Malt based flavored coolers may not be sold, dispensed or given away in the original container in amounts less than a four pack of bottles or cans</p> <p>3. Shall not sell, dispense or give away intoxicating liquor in the original container in amounts of two hundred (200) milliliters or less in volume. 'Intoxicating liquor' shall not include wine in the original container with an alcohol content of 15% or less by volume</p> <p>4. Shall not sell, dispense or give away wine in the original container with an alcohol content of more than 15% alcohol by volume, where spirits have been added to the wine that have not been produced from the same fruit as the wine, for consumption off the licensed premises. This prohibition shall not apply to vermouth, port, sherry, and wine sealed with a cork and aged two years or more, and wine with 15% or less alcohol by volume where the alcohol is produced by natural fermentation.</p>		X		
9	<p>1) License limited to the sale of wine and wine coolers only.</p> <p>2) wine and wine coolers limited to one shelf of walk-in cooler and one five-square-foot rack of wine.</p>				X

12	<ul style="list-style-type: none"> <li>1) No sale of single bottles or single cans of beer or fermented malt beverages.</li> <li>2) No sale of 40 ounce bottles of fermented malt beverages.</li> <li>3) No sale of fortified wines.</li> <li>4) Display of beer will be limited to one 15-square-foot section of cooler.</li> <li>5) Wine and wine coolers will be limited to one shelf of walk-in cooler and one five-square-foot rack of wine.</li> <li>6) Beer shall only be displayed in the cooler. There will not be any other displays of beer in the store.</li> <li>7) Operational plan will limit liquor sales to wine only.</li> </ul>			X
13	<p>No sale of single cans or single bottles of beer or fermented malt beverages.</p> <p>Class A Liquor license is limited to wine only.</p>		X	
14	<ul style="list-style-type: none"> <li>1) No sale of single bottles or single cans of beer or fermented malt beverages.</li> <li>2) No sale of 40 ounce bottles of fermented malt beverages.</li> <li>3) No sale of fortified wines.</li> </ul>	X		
15	<ul style="list-style-type: none"> <li>1) Display of beer limited to one 15 square foot section of cooler.</li> <li>2) No sale of single bottles or single cans of beer or fermented malt beverages.</li> <li>3) No sale of 40 ounce bottles of fermented beverages.</li> </ul>			X
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17	<ul style="list-style-type: none"> <li>1) No single cans or single bottles of beer or fermented malt beverages.</li> <li>2) Exclusion from previous condition for specialty imported beers and microbrews.</li> </ul>			X
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18	<p>Common Council granted 2-26-2013 with the condition that no single-serving sales are allowed.</p>			X

19	<p>1) No sale of single bottles or singles cans of beer or fermented malt beverages.</p> <p>2) No sale of 40 ounce bottles of fermented malt beverages.</p> <p>3) Display of beer will be limited to one 15 square foot section of cooler.</p> <p>4) Beer shall only be displayed in the cooler. There will not be any other displays of beer in the store.</p>			<b>X</b>	
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