



Office of the Mayor

Paul R. Soglin, Mayor

City-County Building, Room 403
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703-3345
PH 608 266 4611
FAX 608 267 8671
www.cityofmadison.com
mayor@cityofmadison.com

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To: Alcohol License Review Committee and Common Council

From: Mark Woulf, Food and Alcohol Policy Coordinator

Re: Habitually Intoxicated Persons (HIP) Ordinance review and recommendations

Background

In July 2010, the Common Council adopted an ordinance prohibiting Class A establishments from selling alcohol to habitually intoxicated persons. Habitually Intoxicated Persons (HIPs) are defined, under ordinance, as individuals who accumulate six or more alcohol-related convictions within a 180-day period. The ordinance also requires an annual review to study whether it has deterred alcohol consumption of those individuals deemed “habitually intoxicated”.

First, I would like to provide a brief history for those not as familiar with the ordinance. The HIP ordinance was developed to address the problem of a few individuals expending a disproportionate amount of community resources due to alcohol 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.

Many other cities have similar issues in attempting to mitigate the impact on the system of those chronically addicted to alcohol. Some communities have concentrated on the products that are most often consumed on the street, such as high alcohol volume malt beverages. The City of Madison decided the best route was to work on product bans in only certain areas and concentrate on the people that were using the most resources. As a result of many discussions on the best way to categorize people, the Common Council ultimately adopted this HIP ordinance and left the onus on the retail establishments to refuse sale.

Due to a variety of factors; vacancy in this position, a change at the helm in the Mayor’s Office, and an attempt at repeal of the policy, the implementation of the ordinance did not take place until October 2011. Therefore, the review of this ordinance is conducted for the calendar year of 2012.

Review

The original list included 14 individuals. There have been three updates of the list since then, with five additions and one removal (lack of an identification photograph). A person has two ways of being removed from the list; after 180 days without alcohol-related police contact¹ a person may petition for removal from the list; or, a person is automatically removed after one calendar year without an alcohol-related conviction.

As a part of this latest list, we conducted a review of the original 14 individuals to determine if they had any alcohol-related municipal convictions in the past calendar year. We determined that eight individuals did not have any such convictions in the city and were subsequently removed from the list. With six more additions to the list for this quarter, this leaves our most up to date list at 16 individuals.

It is important to note that the sixteen individuals on the list are not the only individuals that met the criteria (six or more alcohol-related conviction in 180 days) to be placed on the list. The ordinance requires in-person service of notification of placement on the list. If a person was not able to be located by MPD in a reasonable amount of time, the list was updated without placing that person on the list. In just this latest round alone, there were seven additional individuals who met that criteria and were not added to the list.

We also took the original 14 HIPs and compared their 2012 alcohol-related police contact to a control group of an additional 14 individuals who were not eligible for the original list, but had a significant number of alcohol-related police contacts.

| IN 2012 | Original HIPs | Control Group |
|------------------------------------------------------------------------|---------------|---------------|
| Number of Persons (out of 14) w/ alcohol-related police contact | 6 | 10 |
| Total number of alcohol-related police contacts | 86 | 90 |

The significant take away from this aspect of the review is that eight out of the original fourteen HIPs have not had any local alcohol-related police contact in the past year. There are a variety of factors that potentially have influence over this data. At least one individual on the original list has been incarcerated for the entire calendar year. An individual could have moved out of the area. Sadly, at least one individual is deceased. There is also the potential that an individual has broken the addiction cycle and stayed out of trouble. We know this to be the case in at least one person in the control group.

There is other important information that remains critical in determining the best course for the HIP policy at this time. There are two pieces of qualitative observations that are worth examining; one from outside stakeholders, the other from city staff.

Every time a new list is produced, I host a meeting of law enforcement, service providers, and retail representatives to gain feedback on the policy. There are two observations that merit conversation. The first is the feedback from our retailers, especially those downtown. The overwhelming reaction to the HIP list has been positive. The retailers have consistently reported that it has been a productive tool in refusing service to those who have caused problems in the past. It gives them the ability to say that they are legally prohibited from selling. Once a person knows that particular retailer will not sell, it deters them from ever coming back. The other piece from our stakeholders, and arguably the most significant piece to come from this policy, is the bridging of the gap between our neighborhood officers and service providers. This bridge is critical so that when an officer learns of an individual on the street either asking for treatment, or close to asking for treatment, the officer knows who to contact among our service providers to try and make that happen. It is essential for our service providers to be able to respond quickly in these situations, otherwise the window of opportunity for a person to accept the treatment may close.

The other qualitative observation has been from city staff. While the initial search for individuals who have racked up alcohol-related police contact is not extremely tedious, the staff time involved in getting each list finalized is significant. To give an overview: the MPD crime analyst does an original query to determine any person in a 180-day period that has six or more alcohol-related *charges*. Next, that list is given to the clerk of municipal court. The municipal court clerks must manually go through each name on the list of charges (last time it was over 240 names) and highlight the charges that were *convictions*. Once that list is completed, all of the names eligible to be placed on the list are given to MPD. Then, MPD has to personally serve each individual. Of the thirteen individuals eligible in this last round, only six were found. This requires a considerable amount of staff resources just to find each individual. Finally, once only the served individuals are placed on the list, printing services processes a letter and a packet of pictures. Those are manually placed into envelopes by the Mayor's Office and mailed out to each Class A license establishment (over 130). Following the current ordinance, this entire process is to occur every three months.

The final bit of information that should be considered is the sunset of the ordinance. The ordinance was written to include a sunset three years from *enactment*. This would put the sunset at July 13, 2013.

Recommendations

- 1) **Amend Section 38.12(6) to change the distribution of the list from every quarter to every six months.**

As provided earlier, the extreme amount of staff time it requires to produce a list every three months is burdensome. There is often significant overlap of the time periods we are working with in order to give adequate time to MPD to search for and serve those eligible to join the list. Since we are already looking for those who have been convicted of six or more alcohol-related offenses, it makes practical sense to produce a new list every six months.

2) **Amend Section 38.12(3)(c) to allow for the automatic removal of HIPs if there are no alcohol-related convictions in past six months.**

This would allow persons on the list to be removed if they have had no alcohol-related convictions in the six-month time period. This is different from the current policy that requires no convictions for one year. This would also allow the maintenance of the list to be more manageable, keeping in mind that while battling alcoholism, a six-month time period without an alcohol-related conviction is significant. Although with the removal of eight individuals from the latest list, there is still concern that at its current pace, the list will continue to grow at an unmanageable pace for retail staff to keep up with. This would also allow city staff to have an expectation of consistency every time a new list is produced.

3) **Amend Section 38.12(10) to extend the sunset of the ordinance until July 13, 2015.**

The original intent of the Common Council was to have a sunset in place three years after the enactment of the ordinance. This would have given our office three years worth of data to analyze and provide to the Council to make decisions about the future of the ordinance. Since the implementation did not take place until October 2011, there has been just over a year of data to analyze, thus the information is limited to recommend a final action on the ordinance. I believe there have been positive effects of the policy. I also believe we do not yet have enough of a data time frame to accurately understand if there has been a disruption in the consumption of alcohol by those on the list. By extending the sunset by two years, we will get the three years of data originally agreed upon, and then be able to provide a more complete review of the ordinance at that time.

To conclude, I respectfully request that the alders on the Alcohol License Review Committee direct the Office of the City Attorney to draft the changes recommended in this review. Once the draft is completed it will be introduced and referred back to the Alcohol License Review Committee for further discussion prior to reaching the Common Council for final action. I thank you for your time in reviewing and considering the provided recommendations.

Sincerely,

Mark Woulf
Food and Alcohol Policy Coordinator
Office of Mayor Paul R. Soglin
(608) 266-4611

¹ For purposes of this review, "alcohol-related police contact" is defined as an alcohol-related citation (charge) in the city of Madison.