

# Cocktails To Go: How COVID Changed Alcohol Regulation



## 2021 NCSL Legislative Summit

*November 3, 2021 | Tampa, FL*



# COVID Impact on Beverage Retailers

**Bars & Taverns** - Hardest hit...Shutdowns for up to 100 days;

- Uneven economic recovery; Ongoing operating challenges; Variant surge-related policy changes
- LABOR shortages; Product availability; Debt; Lack of additional federal relief; Future uncertainty;
- **March 2020 → March 2021: U.S. bar and restaurant sales of beer, wine and spirits declined by \$90 billion.**

**Package Liquor Stores** - Channel shift to off-premise forced a biz model pivot

- "Essential businesses" during shutdowns; Innovation and ingenuity
- eCommerce opportunities; Sales now back down to earth
- **Now faced with opportunistic and overly-broad deregulatory fights**

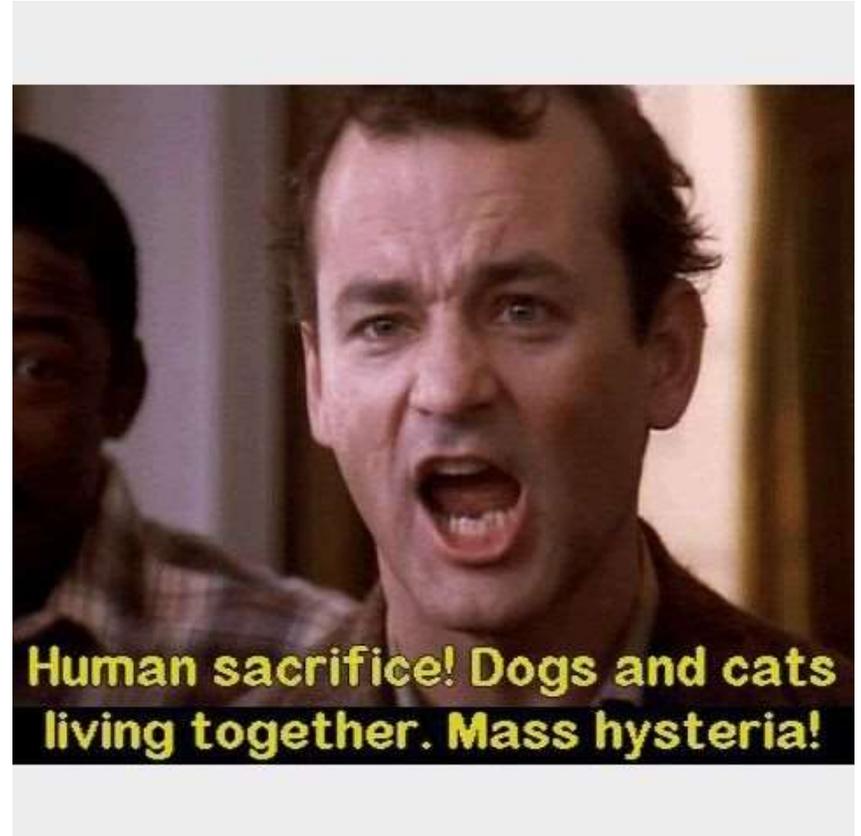
# The COVID Kiss

- **What DID we see during COVID?**
  - **New policies for local business...** Cocktails To-Go; Package sales; Delivery; Curbside; Some shipping.
  - **Governors flex power for public health...** What are the long-term effects of disregarding laws?
  - **Big Retail "Halo'ing"...** What power structure (and leverage) will that create? Competition?
  - **DTC & Delivery...** The DTC push is on from suppliers (beer, spirits); Delivery and e-commerce activity at all levels

<b>BE HEALTHY, BE CLEAN</b>					
<b>CLEAN &amp; DISINFECT</b>					
<b>SOCIAL DISTANCE</b>					
<b>PICK-UP &amp; DELIVERY</b>					
<b>PHYSICAL FACILITY</b>					

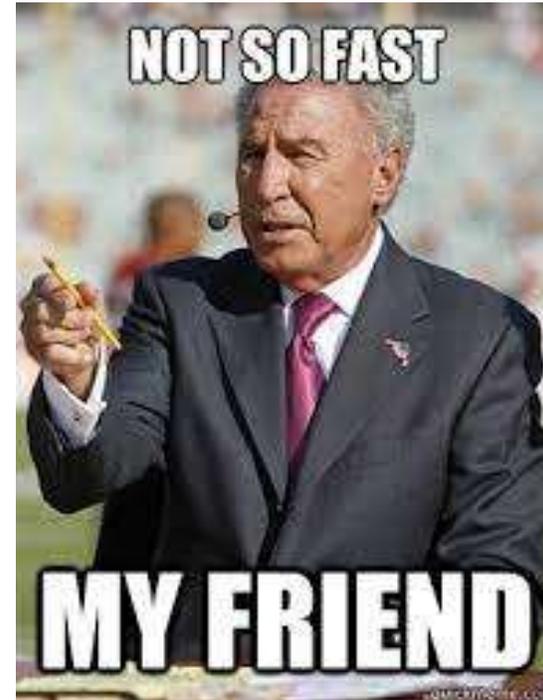
# The COVID Kiss

- **QUESTION: Has everything changed, forever?**
  - 9/11: "I'm not sure I'll ever fly again."
  - 2008 Economic Crisis: "This will fundamentally change the American banking system."
  - 2020-202(?) COVID-19: "I'll only shop online, work from home, and never wear pants...forever."



# The COVID Kiss

- **ANSWER:**



- **COVID LESSON:** Clearly the pandemic has changed some things, but it is not a license to get rid of thoughtful discourse and deliberative policymaking - *especially when it comes to beverage alcohol*

# The COVID Kiss

## Important Questions for Legislators:

- **Do rules & process still matter?**
  - Pandemics aren't the norm. Some rules suspended; Others ignored; Overreach won't stop though the rationale will change
- **Can rules survive if there is no enforcement?**
  - Currently there are unprecedented deregulatory pressures on **alcohol**...but with disregard for appropriate oversight of responsibility, public safety, tax collection, product integrity and reliance interests of current stakeholders in the ecosystem.
- **What do consumers say?**



# What do consumers say?

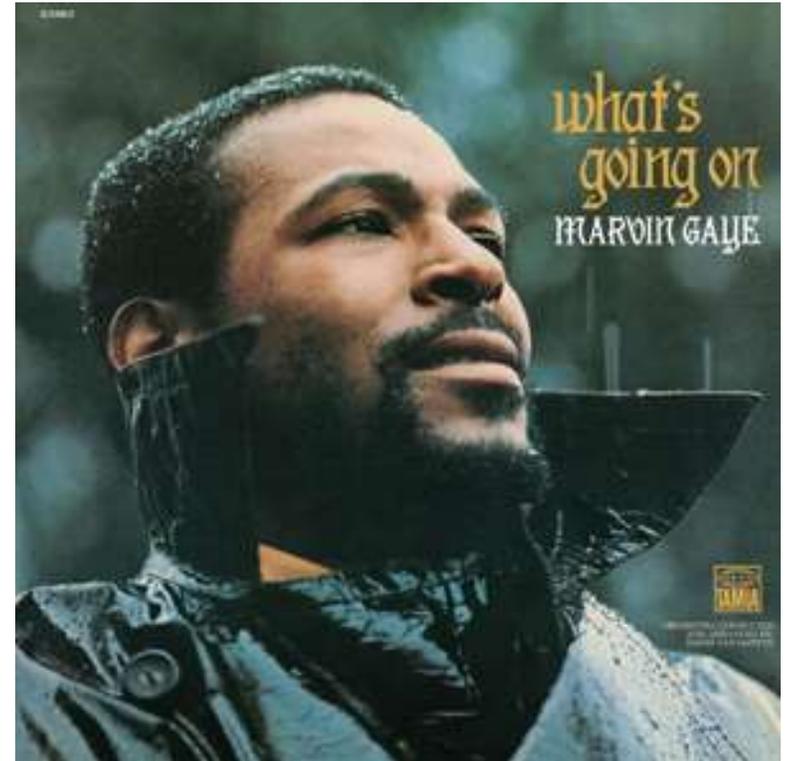
## Key findings from April 2021:

- Support remains overwhelming for individual state regulation of alcohol
- Most Americans reject the notion that alcohol is just like other consumer products
- 71% of Americans are satisfied with the alcohol regulations in their state
- 80% of respondents show support for states regulating through a three-tier system (consistent over the past decade)
- A majority agree that states should evaluate the impact of COVID-19 inspired deregulations before making them permanent.

**Source:** ["National Alcohol Regulation Sentiment Survey"](#); New Bridge Strategy/Center for Alcohol Policy; April 2021

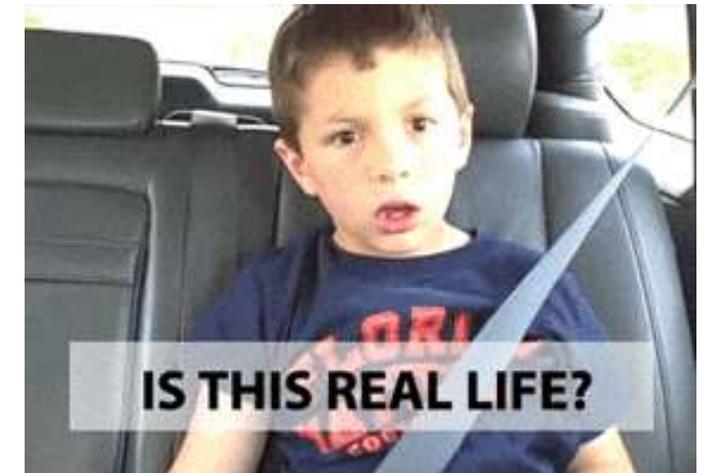
# So what's going on?

- Attempts to **break up stable and competitive alcohol markets**
- **Undermining or delegitimizing the three-tier systems** that states use for alcohol commerce, tax collection, accountability and public safety
- **Imperiling the businesses of independent beverage retailers** who are relied on to build brands and provide customers with service, choice and value
- Pushing drastically **deregulatory model liquor shipping legislative principles** to be used in state legislatures



# Common Sense

- **Model Alcohol Legislation Rarely Works Across 50 States**
  - New York City ≠ Johnson City ≠ Salt Lake City
- **Liquor Has Historically Been Treated Differently Than Other Alcohol**
  - Communities place a greater emphasis on control of liquor sales
- **Explain the Need** (*because this is a manufactured crisis.*)
  - Choice of products available to the public is at an all time high.
  - The liquor industry has seen [supplier gross revenues soar from \\$18.2 billion in 2007 to \\$31.2 billion in 2020](#) and the number of new craft distilleries in the U.S. now numbers more than 2,000.



# “Let me check with my attorney.”

- **Tennessee Wine (2019):** State durational residency requirements to hold a liquor license are not OK
  - **Wrong Takeaway from Tennessee Wine:** any state alcohol law that limits unfettered interstate commerce of alcohol is unconstitutional
  - **Right Takeaway from Tennessee Wine:** legitimate state alcohol laws that promote public safety should be understood, enforced and defended.
- **SCOTUS:** looking at the “predominant effect” of state alcohol laws and the purposes they serve
  - (Based on lower court cases, turns out that most states are getting it right)
- **REMEMBER:** The more loopholes created, the less legitimate laws become, making it easier for them disappear altogether



# Big Picture & U.S. Three Tier

- “Democracy is the worst form of government - except for all the others that have been tried.”  
– Winston Churchill
- WHO: 25% of alcohol consumed worldwide is unrecorded.
- Fake & Counterfeit alcohol headlines plague other countries...why isn't this an issue in the United States?

## International Headlines

- **Kenya:** “NACADA Warns of Counterfeit Alcohol”
- **Cambodia:** “7,000 litres of counterfeit alcohol seized”
- **India:** “Illegal liquor racket busted in Patiala, 3 held”
- **U.K.:** “Kings Norton shop caught selling counterfeit wine after tip off”
- **Dominican Republic:** “Deaths in Dominican Republic linked to tainted alcohol”
- **Cameroon:** “Cameroon Says Deaths from Consuming Fake Alcohol Spike During Pandemic”
- **Spain:** “Spanish Authorities Bust Pirate Rum Ring, Seize \$4.2 Million in Booty”



# Questions & Discussion

**THANK YOU**

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