

A Personal History of State-Based Alcohol Regulation

By Marshall Thompson

Most people don't have a defining personal moment dealing with state liquor laws. I do. I was seventeen years old when the issue of increased licenses for microbreweries became a hot political topic in my hometown of Logan, Utah. During the turmoil that ensued, I learned to be civically engaged and stand up for things that I believe in. I also learned the importance of alcohol laws. The cultural aspects of alcohol consumption are so varied in the United States that state regulation and local governmental control of alcohol are absolutely necessary to ensure the public safety.

Like most people in Utah, I'm a Mormon, and the Mormon culture has its own special relationship with alcohol laws. Nearly a century before the Eighteenth Amendment was ratified, Mormons had initiated attempts to reduce or eliminate alcohol consumption. Joseph Smith, founder of Church of Jesus Christ of Latter-day Saints, said he received a revelation from God in 1833 that Mormons should not have "strong drink." Mormons often refer to this tenet of our faith as the "Word of Wisdom." At first, it appears it was more of a suggestion to promote general health. Over time, however, the Word of Wisdom became a strict rule of conduct necessary for full fellowship in the church. In 1851, Joseph Smith's successor, Brigham Young, declared the Word of Wisdom to be a commandment, not just a general guideline (Church of Jesus Christ of Latter-day Saints, 1852).

Still, many Mormons didn't want to get rid of alcohol completely. My great-great grandfather often wrote in his journal about grabbing a beer on a hot day while serving as a Mormon missionary in Denmark near the end of the nineteenth century. But this attitude slowly

started to fade. In the early 1900s, the Church officially stopped using wine in its sacramental services, and in an apparent reverse miracle, substituted it with water. By 1921, total abstinence from all alcoholic beverages was an absolute requirement for full membership in the church (Alexander, 1981). That final catalyzing step in religious doctrine came just after the ratification of the Eighteenth Amendment. It remained in effect even after the Twenty-first Amendment repealed federal Prohibition.

By the mid-1990s, I was a fairly average teenager in Utah who had never had the desire or opportunity to drink alcohol. The state Alcoholic Beverage Control Commission was considering an increase to the number of microbrewery licenses. In Logan, the commission's consideration of more liberal alcohol laws was highly controversial. My father was the director of the local Chamber of Commerce and had studied the issue out in depth. He concluded in one of our nightly political discussions that the revised laws would be good for business and would have few detrimental effects, if any, on public safety. Increased manufacturing of alcohol doesn't necessarily mean an increased demand for alcohol. Rather, it was the other way around. An existing demand was prompting the liberalization of microbrewery licensing. So what difference would it make if there was a microbrewery in Logan, or any other small town in Utah? It seemed logical to me.

So I was surprised when I went to church on a fine Sunday morning and saw a woman at the door with a petition demanding that the commission firmly reject any increase to alcohol licensing. For those unfamiliar with Mormon religious services, this was completely out of the ordinary. My whole family slipped quickly past her in the crowded doorway and made it to the pews without any awkward confrontations. After the main meeting, however, I went to a Sunday school class for young men where the conflict would soon become unavoidable. My

friends and classmates as well three adult teachers all filed into the room and began our meeting with announcements and reports on recent activities. The class president, a good friend of mine from school, picked up a clipboard from the desk and announced that before we began the Sunday school lesson we should all sign the petition to ask the commission to restrict microbrewery licenses. I didn't think I could sign it, especially since I had decided that expanding licenses was a logical thing to do. To suddenly change my mind in the absence of any reasonable argument seemed dishonest.

As politely as I could, I suggested to my friend that it was inappropriate to pass around a petition in a Sunday school class, and maybe we should just get to the lesson. He shrugged and turned to one of our adult teachers, who then tried his best to explain why it was appropriate for Sunday school and why we should all sign the petition. I presented a counter argument and the great State Liquor Law Debate of the Logan Twenty-Second Ward Sunday School began. The words we used have long since escaped my memory, but the contours of the conversation are still fresh on my mind.

First, the teacher told me simply that I was a Mormon, and since I was Mormon, I didn't drink. And since I didn't drink, I should always support the most restrictive liquor laws possible.

Not everyone in Utah is Mormon, I replied. Shouldn't our laws take that into account? On top of that, since Mormons don't drink, shouldn't we stay out of decisions that only affect other people?

He agreed that it wasn't right to foist our beliefs on others, but insisted that it wasn't about religion. It was about public safety. The more liberal the liquor laws, the more drinking will become a public safety hazard. Conversely, the more restrictive the liquor laws, the safer everyone becomes. Therefore, he argued, I should stop objecting and just sign the petition.

My Sunday school teacher was right in some ways. If there were no alcohol laws and regulations at all, it would most likely create a massive public safety hazard. Underage drinking and drunk driving are serious safety concerns that our laws must address. Alcohol has been around for a long time, and as a necessary result, laws regulating its production and use are ancient.

The Code of Hammurabi, perhaps the oldest codified set of laws, created some rudimentary rules governing alcohol use. In an article titled *Alcohol and Culture*, author David G. Mandelbaum wrote:

The code of Hammurabi (who came to power about 1720 B.C.) laid down strict regulations for tavern-keepers and tavern servants, who were mainly women. ... Even more stringent were the liquor laws for women who were dedicated to the gods. Such a woman could not keep a beer shop or frequent one. If she was convicted of doing so, she was burned to death, the direst form of capital punishment (Mandelbaum, 1965).

It's clear that even the earliest civilizations felt a certain amount of alcohol regulation was necessary for the good of everyone. The level of regulation and its general application, however, has been a traditionally hard line to draw. In ancient China, people struggled to balance the need to regulate alcohol for the public safety with the need for people to enjoy alcohol in a pro-social manner. According to an article by David J. Hanson, the Chinese enacted and repealed laws governing alcohol use more than forty times between 1,100 B.C. and A.D. 1,400 (Hanson, *Alcohol Laws Around the World*, 1995). The vacillation is indicative of how tricky alcohol laws can be.

When it comes to alcohol, it appears that ancient China is very similar to modern America. The debate I was having with my Sunday school teacher was nothing new. We were

going back and forth regarding the same problems that probably gave Hammurabi a headache and kept ancient Chinese sages awake at night.

One area in which I could not agree with my Sunday school teacher was when he stated that more restrictive laws would most likely increase the public safety. While on its most basic level, this argument makes sense, the application of it has rarely been so clear cut. Prohibition is the best example of how more restriction does not always mean more safety. As soon as alcohol became completely restricted, a dangerous black market formed that was arguably more a public safety hazard than alcohol ever was on its own. The Mafia, and similar menacing crime syndicates, rose to prominence under Prohibition. Government attempts to keep people from drinking also directly led to unforeseen public health hazards. To keep the Mafia from spiking drinks with readily available medical alcohol used for sterilization, the federal government began actually poisoning the alcohol. As a result, nearly 10,000 people died (American Law and Legal Information, 2010).

Clearly, overly restrictive alcohol laws can cause more problems than they solve. The same holds true with some dry counties that exist in the United States today. In several counties in Mississippi and other states, it is illegal to make, consume, or transport alcohol (Hanson, Dry Counties, 2009). People still like to drink, however, and they tend to find a way even in a dry county. This involves midnight runs to the state line. Any time you involve long distance driving and alcohol, you start to encourage drunk driving.

Another example of restrictive alcohol laws that could sometimes have unintended negative consequences are restaurant liquor laws that do not allow diners to take home unfinished bottles of alcohol and beer. It sounds like a good idea at first because it would keep people from having an open container of alcohol in the car as they drove home. This would keep

them from being tempted to imbibe while they drive. Once again, any time you combine alcohol and driving, you're going to have a public safety problem. This law, however, can in some cases actually encourage drunk driving. The casual diner who did not finish his bottle of wine at dinner is forced to either throw the rest of the wine away or drink it all before he leaves the restaurant. This law actually creates an economic incentive to finish the bottle. Under these circumstances, the law, meant to restrict alcohol sales in restaurants and decrease drunk driving, might actually encourage some people to get drunk before they leave the restaurant and get in their cars.

My Sunday school teacher was right that alcohol had to be regulated. He was wrong, however, in assuming that more regulation meant more safety. Policy makers should not simply restrict alcohol use. Instead, they should take into account the local customs and culture and ensure that the actual application of alcohol laws and regulations are creating protecting the public health and safety.

Customs and uses of alcohol among a group of people make a massive difference in how the law functions in real life. In a recent New Yorker article, author Malcolm Gladwell explored the social and cultural aspects of drinking. He wrote extensively about research on the Cambia, a group of people in South America. On a regular basis, the Cambia would drink massive amounts of potent alcohol. Contrary to common ideas in the United States about alcohol, however, the Cambia's drinking did not result in asocial behavior or public safety risks. Gladwell concludes that the Cambia have a cultural script that governs how they handle themselves when they are drunk that affects the societal outcomes of alcohol consumption. In other words, it's not the alcohol that is the problem, it's what we do with it that counts. Different cultures have different ways of approaching alcohol. In the same article, Gladwell writes about first generation Italian Americans who consume Cambia-like amounts of alcohol without any of the negative societal

results. Unfortunately, after a few generations, the drinking traditions of the old world would wear off and the grandchildren of the immigrants would reflect more socially destructive behavior while drunk (Gladwell, 2010).

The study also found that first-generation Irish immigrants had vastly different alcohol customs than either first-generation Italian immigrants or third-generation American citizens. So, just in one city, there were at least vastly different approaches to alcohol consumption that would drastically affect the practical application of laws and regulations.

In Utah, the prevalence of Mormon teetotalers creates the need for different laws. Take for instance, a young Mormon who attends at party at college. He has never had a drink in his life. In fact, he's never even been around people who drink. He has absolutely no cultural script or traditional that is going to help him cope with the situation. Under the circumstances, he decides that he's going to experiment a bit, but he has no idea how much alcohol is an appropriate amount to drink. It may be hard to believe, but he might not even understand the difference between beer and hard liquor. Of course the danger here is obvious. Not used to the technicalities of drinking, he probably did not arrange for a designated driver. He also will most likely end up over-consuming. The results of such a situation can often be deadly. It is perhaps for this reason that Utah limits alcohol content of beer. While there may be a compelling public safety concern for this in Utah, it would be harder to justify in a different community where the majority of people have a cultural context for drinking. In Texas, for instance, people under twenty-one can consume alcohol as long as they are with their parents or with a spouse who is over twenty-one (Mother Jones, 2010).

To be effective, alcohol laws need to be tailored specifically to the groups that they are trying to serve. This is part of the reason that national Prohibition eventually failed. Considering

the powerful sociological differences between groups in American on alcohol consumption, and considering how restrictive laws are not necessarily the most effective, it's amazing that national prohibition lasted as long as it did. The Twenty-first Amendment gave the power to regulate alcohol to the states. In turn, some states have delegated this power to the local level, letting counties and cities regulate themselves. This was a vitally important move and I think it makes us safer today. Each state can customize its laws to reflect the most important cultural scripts for alcohol consumption in their area. That's why a dry county might work in Mississippi, but it wouldn't work in Utah. That's why Florida has a law allowing alcohol to be illegal during a hurricane, and Colorado has law making it illegal to ride a horse while drunk. Allowing states to set alcohol laws has allowed for an increased flexibility and ultimately a safer environment for everyone.

The power to regulate alcohol on the state level also has economic implications beyond the important issues of public safety. Utah liberalized its liquor laws in some areas to accommodate the crowds in the Winter Olympics in 2002 (Kerig, 2003). The Utah Legislature balanced the risk to Utah's commerce and reputation as a hospitable place against the potential damages to public safety and determined that it was time to change the laws. That's the sort of flexibility that a national system of Prohibition could never have provided.

Back in my Sunday school class in Logan, Utah, we did not discuss all benefits of state liquor laws. We did, however, have a sense of access and inclusion in the decision-making process. I felt as a young man that the petition going around could have a real effect on the commission. After all, it wasn't going all the way back to Washington D.C., this was a state issue. It was something that we could actually influence. This was ultimately what drove us to continue the debate. Instead of merely shrugging our shoulders, we felt like we were participants.

That is one of the reasons that state regulation of alcohol is so effective. The closer the access that the average citizen has to the decision makers, the more likely that citizen is going to feel engaged and feel able to participate. I stated earlier that not many people have had a defining moment in their lives dealing with alcohol regulation, but perhaps that was incorrect. It's not hard to image that what was happening in my Sunday school class was happening in communities across the United States. The more we think and talk and debate these issues, the more just and effective our laws will be.

As for my Sunday school teacher and me, the debate was starting to wind down. We came to an agreement on several issues and we agreed to disagree on several more. On the subject of passing around the petition, however, I felt I had to hold my ground. The Sunday school teacher announced that he would pass around the petition and anyone who wanted to could sign it or not. I still felt it was unfair to collect petition signatures in that manner and I told him so. I said if they felt they had to pass the petition around, then I would have to leave. They did, and so I politely stood up and left. In retrospect, it was a brilliant way to get out of Sunday school early.

I don't have bad feelings about the debate. I still keep in touch with the Sunday school teacher and I consider him to be one of the best people I know. Our honest disagreement on alcohol laws did not bleed over into any other area of our relationship. The same was true with my friends. Still, I felt like I had stood up for something that I believed in that day, and that made all the difference to me. In the end, not much changed. From what I remember, the commission went on to approve more microbrewery licenses, but it never affected our community directly. To this day there are no microbreweries in Logan, Utah. Ever since that day, however, I was keenly aware of what was going on with alcohol laws on a state level.

I'm convinced that state control is the best way to handle the tough question of alcohol use in our nation. Complete deregulation of alcohol would be a disservice to the general public safety. However, national standards for alcohol use and consumption would never work for all the different communities, circumstances, and cultures that make up our country. For cultural, economic, and democratic reasons, state alcohol laws make our country a safer and better place to live—even for people who don't drink.

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