



Dry America in the 21st Century

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For additional information on state laws pertaining to wet and dry jurisdictions, please refer to Appendix A of this document.

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The 21st Amendment ended national prohibition and the question of alcohol control and regulation was left to the individual states. Each state created its own unique regulatory scheme. Certain states chose to have direct control over wholesale or retail operations and to this day, there are 17 control states and numerous control localities in the nation.

Additionally, as part of this process, over half the states decided to allow a local option whereby cities, towns, counties, and/or other local government units could decide their own community's alcohol policies. This includes three states (Kansas, Tennessee, and Mississippi) where localities must take pro-active steps to allow the sale of alcohol and seventeen states that do not allow local prohibitions on alcohol sales.

Across the United States, there are hundreds of localities where the purchase of alcohol is completely or partially prohibited. Local jurisdictions can be grouped into one of three categories: wet, dry, and moist.

Wet jurisdictions are those with no constraints on the sale of spirits, wine, or beer save for Sunday sales or other related restrictions. In Alabama and other states, there are wet cities in counties that otherwise prohibit or limit alcohol sales.

Dry jurisdictions have a complete prohibition on alcohol sales, both in bars and restaurants for on-premise consumption and off-premise outlets. Several states do not allow dry jurisdictions as state law confines localities from having more restrictive alcohol laws than the state itself.

Moist jurisdictions strike a balance in between wet and dry. In these localities, beer and wine may be available but spirits may not. Alcohol by-the-drink in a tavern may be prohibited while buying beer to take home from a grocery store may be allowed. The rise of moist jurisdictions stems from compromises in dry communities to permit some alcohol sales in response to resident demand.



The motivation for communities looking to prohibit the consumption and/or sale of alcohol stems from multiple sources. The religious and moral objections to consuming alcohol remain to this day as tradition in some localities. There is also a concern about the public health of residents and other harms associated with excessive alcohol consumption including crime and violence.

Modern Trends

The 21st century has seen a trend against dry jurisdictions. Many localities, including cities and counties with strong historical ties to alcohol prohibition, have reversed their earlier opposition and opened the door to liquor consumption and sales through policy changes and voter propositions.

Over the last decade, states with diverse geography and demographics have seen their localities open up to the idea of alcohol sales. Kansas, a state that did not end prohibition until after World War II and enacted the first alcohol-banning state laws in the nation, is the home of over a dozen new wet or moist counties in the last decade. Tennessee has seen a 50% jump in localities that allow on-premises alcohol sales in places such as bars and restaurants.

Throughout the post-Prohibition era, Kentucky enacted some of the most original liquor laws in the United States, including laws governing the local option for cities and counties. This has allowed for several localities to go from dry to wet in recent years, down to the micro-local level: the M-107 precinct of Louisville voted to go wet in April 2010.

In 2016, Adair County, Kentucky voted to go wet in an election that had a “huge turnout” with over 65 percent of registered voters casting a ballot. In a unique situation, Ohio County voted to remain dry however the city of Beaver Dam, located into Ohio County, voted to become a wet locality as allowed by Kentucky state law.

Texas has been a hotbed for the trend against dry jurisdictions. The last decade has seen 22 counties and over 200 cities and towns, formerly dry, allow some form of alcohol sales. One such locality, Winona, became a wet jurisdiction in 2010 as its mayor decried that the town of less than 600 residents was behind the times. Mayor Rusty Smith was quoted in a national newspaper as saying there wouldn't be a dry county in Texas by 2030. In November 2014, alcohol sales passed in thirty-two of the thirty-six localities with a wet-dry initiative. Citizens of the city of Nash, Texas failed to pass a referendum to go dry.

In Massachusetts, a number of dry and moist municipalities have implemented open alcohol policies, some after decades. The Boston suburb of Needham allowed off-premise liquor stores beginning in the summer of 2013 for the first time since the end of Prohibition. Previously, the town had opened up drinking to on-premises locations such as hotels in 1966, and restaurants with more than 100 seats in 1974. The suburb of Belmont allowed liquor stores in 2007 after a ban on sales for over a century.

The Massachusetts town of Arlington is a prime example of how the support for a dry community can erode over time. Arlington ended complete prohibition on alcohol when it opened on-premises sales to certain restaurants in 1978 then all restaurants in 1994. Off-premise outlets became legal in 2006. Since 2012, patrons have enjoyed beer and wine at local movie theaters. In one generation, Arlington went from absolute alcohol prohibition to allowing sales of alcohol alongside popcorn at the cinema.

On November 4, 2014 Arkansas held a statewide referendum on a measure that, if passed, would have made the "manufacture, sale, distribution and transportation" of alcohol lawful across the entire state and thereby eliminate dry counties as a matter of law. Supporters of this change cited the creation of uniform alcohol rules across the entire state, jobs created by new alcohol outlets, and the potential to reduce drunk driving. Opponents of the measure included



church groups and outlets in already-wet counties that would lose sales to new outlets. The Arkansas Retailers Beverage Association called the potential change “catastrophic” and believed it would lead to large retailers coming into the state at a high rate. The measure did not pass though voters in two counties voted to go from dry to wet during the same election.

The Pine Ridge reservation is the last Native American reservation in South Dakota with a prohibition on alcohol. Residents of the reservation largely ignore this ban and smuggle alcoholic products in from nearby Whiteclay, Nebraska. Whiteclay had a population of 14 as of the 2000 Census but generated millions of dollars in alcohol sales as a result of its proximity to the reservation. The health and safety impact that alcohol illegally brought onto the reservation from Whiteclay had on the Oglala Sioux Tribe became a political issue and in August 2013, tribe members voted to go wet. This would allow the tribe to generate revenue from alcohol sales with greater control over outlet density and investing in alcohol treatment and education programs. The legality of this vote was challenged and following numerous court battles, the Tribal Council scheduled a new vote for May 2016. This vote, however, was cancelled at the last minute by the Council after protests by tribal members.

Alabama has a long history of localities voting on the wet/dry issue. In March 2016, the cities of Ashland and Lineville in Clay County voted to allow the sale of alcohol beverages. Clay County was the last county in the state completely dry. The county as a whole voted to go wet in 1986 but residents voted against that proposal. In the same election, residents of Shelby County approved Sunday alcohol sales with nearly 70% of ballots cast in favor of opening up sales.

Dry-To-Wet: Rationales

There are various reasons for this movement toward dry jurisdictions going wet.

In the last two decades some evidence has been critical of the connection between a dry county and health and safety. A 2003 study about Kentucky wet and dry counties in the journal *Accident Analysis and Prevention* speculated that dry counties create greater safety risks as residents driving back from a wet county can potentially have longer driving time under the influence.

Supporters of a movement to turn Carthage, Tennessee, into a wet city within dry Panola County cite the fact that there are more arrests for driving while intoxicated in the county than any other county in Tennessee; so, while the dry county is impacted by the harms of alcohol use, it reaps none of the economic benefit.

The trend toward dry jurisdictions going wet follows a larger movement toward the growth of alcohol sales. One major factor in this relates to public convenience for liquor. Consumers in dry counties do not want to have to travel to the adjacent jurisdiction to have a drink at a bar or pick up a bottle of wine for a dinner party. Despite the public health and safety aspects of increased outlet density, convenience is winning in some instances and remains a major factor in alcohol policy changes.

In addition to public convenience, the moral objections to alcohol use have wilted in recent years. A *USA Today* article on the subject of dry county shrinkage across the country noted that many in the clergy have generally accepted moderate drinking and churches do not emphasize the moral consequences of alcohol use as they once did. Issues including marijuana legalization and same-sex marriage grab the headlines and have become the battleground of questions of health and safety and morality. Alcohol prohibition, according to Mayor Smith and others, is behind the times, a shadow of a bygone era.



Conclusion

Dry jurisdictions will not disappear overnight. Cities, towns, and counties in the United States that enact a brand of local prohibition have a tradition deeply rooted in their community to remain dry. Not every election to turn a locality from wet to dry is successful.

There is also scientific research recommending a limit on alcohol-selling outlets. The CDC's Community Preventive Services Task Force recommended regulation of alcohol outlet density in 2007 and since then, the Task Force has made further recommendations on limiting the days and hours of alcohol sales. These recommendations are based on studies looking at the public health and safety aspects of alcohol consumption.

The current trend for increased accessibility to liquor will not disappear overnight either. Wet counties are not looking to go dry. Consumer demand and the economic growth brought by new on- and off-premises alcohol outlets create an attractive proposition for communities. It is apparent that citizens living in many dry localities wonder why their city or county remains dry while so many move on from prohibition.

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