



## Sunday Alcohol Sales: History and Analysis

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The end of national prohibition put the regulation of alcohol sales into the hands of states and localities. The scope of this includes restrictions on the days and hours that spirits, beer, and wine may be sold. The background behind these rules has a complex past that is also older than the American culture. Economic benefits, public health and safety concerns, and the separation of church and state play key roles in government decisions on the Sunday sales of alcoholic beverages.

### History of Blue Laws

The term “blue law” refers to any restriction or ban on specific activities on a certain day, usually but not limited to Sundays. There is no universally agreed-upon etymology of the term. No historical evidence suggests that these laws were printed on blue paper or bound in blue ribbon as has been suggested.

Virginia enacted what some historians consider the first blue law when in 1617 the colony required church attendance among citizens and authorized militia enforcement of this requirement. In 1755, a New York newspaper referenced “Connecticut Blue Laws.” Eighteenth century clergyman Samuel Peters wrote about Puritan-influenced blue laws in New England but his writing has been questioned by contemporary researchers as unreliable.

During the early 19<sup>th</sup> century, activists led the charge to enact and enforce new laws preventing commercial or “immoral” activities on Sundays. An influx of Catholic immigrants from Europe, members of the Jewish faith, political progressives, and other groups organized in opposition to these laws and a precarious balance between church and state continued to allow these laws.

The United States Supreme Court has ruled in multiple cases that laws restricting activities on Sundays are not automatically unconstitutional even if they arise from religious underpinnings. As long as there is a secular purpose in enacting those laws, the government may do so. The seminal case in this area is the 1961 decision in *McGowan v. Maryland*, which upheld



a local law against selling goods on a Sunday. The Court stated that the purpose behind the law was the “health, safety, recreation, and general well-being” of all people regardless of their religious affiliation. The Court further noted that an economic harm, rather than a harm to religious freedom, had taken place so there was no First Amendment violation.

In the last fifty years, states and localities have moved away from the blanket prohibition of all commercial activities on Sundays. The two major areas that continue to be restricted in some places are motor vehicle sales and the sale of alcoholic beverages, with the relaxing of even those limitations taking place across the country.

#### The Basis for Sunday Alcohol Sales Restrictions

As state and local governments cannot rely on religious reasons for the ban on Sunday alcohol sales, the justification for these restrictions must come from other factors, which include public health and safety concerns, and curbing excessive alcohol consumption and its consequences.

In 2010, the Community Preventive Services Task Force (CPTF) published its recommendation to maintain limits on the hours and days alcohol sales are allowed. This recommendation was based on a number of independent findings concerning the impact on alcohol-related crime and health issues of retail outlets having limited hours of operation and Sunday (or other day) sales restrictions. The Task Force is an “independent, nonfederal, unpaid panel of public health and prevention experts.”

Studies have shown a correlation between limiting days when alcohol is sold and a decrease in alcohol-related crimes. Sweden enacted a Saturday alcohol sales ban in the 1980’s and statistics showed a noteworthy change in the number of police activity with intoxicated persons. Researchers conducted a study on the impact of the repeal of a Sunday alcohol sales ban

in New Mexico. On Sundays, alcohol-related vehicle crashes rose 29% and alcohol-related crash fatalities jumped 42% from 1990 to 2000.

However, other research suggests that a repeal of Sunday sales restrictions may not increase alcohol consumption but impacts public behavior. A study of drinking habits in Ontario following the repeal of a blue law noted that alcohol consumption increased on Sundays but decreased on Saturdays. A study of alcohol sales versus alcohol sales restrictions in several states estimated that sales restrictions reduced beer sales by 2.4% and spirits sales by 3.5% from 1990-2004; the authors of the study considered this an insignificant decrease.

### The Growth of Sunday Alcohol Sales

Revenue generated by Sunday sales plus evidence suggesting public sentiment in favor of Sunday sales has shifted alcohol policy.

Difficulty exists in expressing a unified national theory of the growth of Sunday alcohol sales as each state, and in many states, each locality, creates its own set of rules beyond what days off-premise alcohol sales may exist. These rules encompass detailed issues including hours of operation and which types of alcoholic beverages may be sold.

According to the Distilled Spirits Council, 38 states and the District of Columbia allow some form of off-premise retail sales of spirits on Sundays. That number includes 16 states that have amended their alcohol policies to allow Sunday sales of spirits since 2002. The Council's official statement on Sunday sales expresses the economic benefits to retailers that come when these restrictions are lifted, such as the belief that Sunday spirits sales restrictions "means that the distilled spirits industry is denied access to at least 7% of our customer base."

In 2017, Minnesota legislators approved Sunday alcohol sales for the first time in its history. A similar measure had been defeated in the legislature in 2015. With an influx of new legislators and other legislators changing their mind, this decades-long push finally succeeded.



There is a concern that this change may lead to fewer restrictions on alcohol sales in the state as well as public health and safety problems. Additionally, North Carolina enacted a “brunch law” which permits counties to allow alcohol sales starting at 10am on Sundays.

Many states that allow Sunday sales also allow a local option where counties and even cities can decide on alcohol sales rules. The emergence of more counties voting to permit the sales of at least some forms of alcoholic beverages creates greater accessibility to beer and wine in grocery stores, convenience stores, and other outlets. Voters in states such as Texas and Kentucky are voting to allow beer and wine sales even while continuing to prohibit the sale of distilled spirits, creating localities known as “moist” counties.

Certain states have not followed the trend toward allowing across the board Sunday alcohol sales. In a number of jurisdictions, only wine and beer with an alcohol content of less than 3.2% are available for off-premise Sunday sales, and this has not been expanded to include spirits and high-alcohol beer despite the efforts of retailers and other stakeholders. Hundreds of counties remain dry; a November 2014 referendum in Arkansas on eliminating all dry counties failed.

Indiana serves as a unique jurisdiction for American alcohol policy. Grocery and convenience stores are prohibited from selling cold beer and a federal judge has ruled that limitation constitutional as a deterrent to underage drinking. Furthermore, Indiana is the only state with a ban on off-premise Sunday sales of all alcoholic beverages (beer, wine, and spirits). In 2017, the state legislature created a study commission to review Indiana’s alcohol laws and make recommendations on how to improve them over the next two years. Sunday alcohol sales are one of the several dozen issues mentioned by lawmakers and which are up for review.

## Conclusion

Blue laws continue to exist today, almost exclusively in the realm of Sunday alcohol sales. Groups that support these restrictions hope to curb excessive consumption and the related public health and safety issues. A coalition of convenience-desiring consumers, retailers, and government officials seeking new tax revenue has successfully advocated for the greater allowance of Sunday alcohol sales, but this success is not conclusive.



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