STATUS OF LOCAL AUTHORITY TO REGULATE ALCOHOL OUTLET DENSITY
Update of State Data (as of April 1, 2020)

Background
In early summer of 2020, legal research was conducted to update the status of state laws preemption local regulation of alcohol outlet density in the 50 states, as reported by the Centers for Disease Control and Prevention (CDC) in the 2013 Prevention Status Reports (PSRs) on Excessive Alcohol Use. This update reviewed the extent to which states grant local governments authority to regulate alcohol outlet density and determined whether there had been any changes to these laws between January 1, 2019, when the last review was completed, and April 1, 2020.

Scope of Legal Research
The legal research specifically sought to identify whether the states had amended the extent to which states grant local governments authority to regulate alcohol outlet density. The original analysis1 placed each state into one of the following categories:

1. Exclusive or near-exclusive state preemption
2. Exclusive state licensing authority, concurrent local regulatory authority
3. Joint local/state licensing and regulatory powers
4. Exclusive local licensing with state minimum standards
5. Mixed (a combination of two or more of the other four categories — e.g., exclusive state preemption for off-premises locations and joint licensing for on-premises locations)

Legal Research Method
A three-phase legal research methodology was used to produce the original dataset and its first update (dated January 2, 2013, and January 1, 2014). Phase One involved reviewing the laws and cases cited for the Prevention Status Reports (PSR) coding of local authority to regulate alcohol outlet density as of January 2, 2013. In Phase Two, relevant sections of CCH’s Liquor Control Law Reporter,2 a summary of state liquor control laws, regulations, and significant cases and rulings, were reviewed. Finally, in Phase Three, Westlaw, an online legal research tool, was used to locate previously identified laws and conduct additional searches of relevant constitutional provisions, statutes, regulations, and related case law. Additional details on the legal research methods are described in Mosher JF, Cohen EN, Jernigan DH. Commercial host (dram shop) liability: current status and trends. American Journal of Preventive Medicine. 2013;45:347–353. Given the stability...
found in the first two rounds of research, subsequent updates in 2016 and 2019 used the methods described above in Phase Three.

Changes Identified
No changes to the data were identified between January 1, 2019, and April 1, 2020. It can be additionally noted that the data has remained constant from January 2, 2013, to April 1, 2020, with revisions being made only to the citations relied on for coding.

Coding and Citations

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<thead>
<tr>
<th>State</th>
<th>Preemption Category</th>
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<tr>
<td>Alaska</td>
<td>Exclusive state licensing authority, concurrent local regulatory authority</td>
<td>Alaska Stat. § 04.11.070&lt;br&gt;Alaska Stat. § 04.11.320&lt;br&gt;Alaska Stat. § 04.11.420&lt;br&gt;Alaska Stat. §04.21.010</td>
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| Connecticut     | Exclusive state licensing authority, concurrent local regulatory authority             | Conn. Gen. Stat. § 30-15  
Conn. Gen. Stat. § 30-44  
Conn. Gen. Stat. § 30-91  |
| Delaware        | Exclusive or near-exclusive state preemption                                           | Del. Code Ann. Tit. 4, § 304                                                                                                                                 |
| District of Columbia | [intentionally blank]                                                                 | [intentionally blank]                                                                                                                                 |
| Florida         | Exclusive state licensing authority, concurrent local regulatory authority             | Fla. Stat. Ann. § 561.02  
City of Miami v. Kichinko, 22 So.2d 627 (Fla. S.Ct. 1945), overruling in part Miami Beach v. State ex rel. Patrician Hotel, 200 So. 213 (Fla. S.Ct 1941)  
Hardage v. City of Jacksonville Beach, 399 So.2d 1077 (Fla. App. 1981) |
| Georgia         | Joint local/state licensing and regulatory powers                                     | Ga. Code Ann. § 3-2-5  
Ga. Code Ann. § 3-3-2  
Bradshaw v. Dayton, 514 S.E.2d 831 (Ga.1999) |
| Hawaii          | Exclusive local licensing with state minimum standards                                | Haw. Rev. Stat. § 281-11  
Haw. Rev. Stat. § 281-17 |
| Idaho           | Joint local/state licensing and regulatory powers                                     | Idaho Const. art. 3, § 26  
Idaho Code § 23-903  
Idaho Code § 23-916  
Idaho Code § 23-933B  
Idaho Code § 23-1009  
Idaho Code § 23-1042  
Idaho Code § 23-1318 |
| Illinois        | Joint local/state licensing and regulatory powers                                     | 235 Ill. Comp. Stat. 5/5  
235 Ill. Comp. Stat. 5/4-1  
235 Ill. Comp. Stat. 5/4-2  
235 Ill. Comp. Stat. 5/4-6 |
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<td>Iowa</td>
<td>Exclusive state licensing authority, concurrent local regulatory authority</td>
<td>Iowa Code Ann. § 123.30 &lt;br&gt;Iowa Code Ann. § 123.32 &lt;br&gt;Iowa Code Ann. § 123.37 &lt;br&gt;Iowa Code Ann. § 123.39</td>
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| Maryland     | Exclusive state licensing authority, concurrent local regulatory authority            | MD Code, Alcoholic Beverages, § 9-202  
MD Code, Alcoholic Beverages, § 4-202  
MD Code, Alcoholic Beverages, § 1-405  
Montgomery County v. Mossburg, 180 A.2d 851 (Md. 1962)  
Park v. Board of Liquor License Com’rs for Baltimore City, 658 A.2d 687 (Md. 1995)  
Piscatelli v. Board of Liquor License Com’rs, 837 A.2d 931 (Md. 2003) |
Mich. Comp. Laws Ann. § 436.1209  
Mich. Comp. Laws Ann. § 436.1525  
Mich. Admin. Code r. 436.1003  
| Mississippi  | Mixed                                                                                | Miss. Code Ann. § 67-1-51  
Miss. Code Ann. § 67-3-65                                                                 |
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State ex rel. Hewlett v. Womach, 196 S.W.2d 809 (Mo. 1946) |
| Montana    | Exclusive state licensing authority, concurrent local regulatory authority          | Mont. Code Ann. § 16-1-103  
Mont. Code Ann. § 16-3-304  
Mont. Code Ann. § 16-3-304  
City Pump. v. Board of Adjustment of City of Red Lodge, 971 P.2d 349 (Mont. 1998) |
| Nebraska   | Exclusive state licensing authority, concurrent local regulatory authority          | Neb. Rev. Stat. § 53-117  
Neb. Rev. Stat. § 53-134.03  
City of Lincoln v. Nebraska Liquor Control Com’n, 626 N.W.2d 518 (Neb. 2001)  
City of Lincoln v. Nebraska Liquor Control Commission, 147 N.W.2d 803 (Neb. 1967) |
| Nevada     | Exclusive local licensing with state minimum standards                              | Nev. Rev. Stat. § 244.350  
Casico, Inc. v. City of Manchester, 702 A.2d 302 (N.H. 1997) |
Zicherman v. Driscoll, 45 A.2d 620 (N.JSup. 1946) |
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| New Mexico   | Exclusive state licensing authority, concurrent local regulatory authority            | N.M. Stat. Ann. § 60-6A-17  
N.M. Stat. Ann. § 60-6B-4                                                                 |
| New York     | Exclusive or near-exclusive state preemption                                          | N.Y. Alco. Bev. Cont. Law § 17  
*People v De Jesus*, 54 N.Y.2d 465 (1981)                                                                 |
| North Carolina | Exclusive or near-exclusive state preemption                                           | N.C. Gen. Stat. § 18B-100  
N.C. Gen. Stat. § 18B-700  
N.C. Gen. Stat. § 18B-701  
N.C. Gen. Stat. § 18B-801  
N.C. Gen. Stat. § 18B-901  
N.C. Gen. Stat. § 18B-904                                                                 |
| North Dakota | Joint local/state licensing and regulatory powers                                     | N.D. Cent. Code § 5-02-09  
N.D. Cent. Code § 5-02-01  
N.D. Cent. Code § 5-02-11  
N.D. Cent. Code § 40-05-01  
NDAC 10-08-01                                                                 |
| Ohio         | Exclusive state licensing authority, concurrent local regulatory authority            | Ohio Constitution art. XVIII, § 3  
Ohio Rev. Code Ann. § 4303.292  
Ohio Rev. Code Ann. § 4301.10  
Ohio Rev. Code Ann. § 4301.04  
Westlake v. Mascot Petrol, 573 N.E.2d 1068 (Ohio 1991)  
*Ridgley v. Board of Zoning Appeals, City of Wadsworth*, 503 N.E.2d 1036 (Ohio 1986)                                                                 |
| Oklahoma     | Exclusive state licensing authority, concurrent local regulatory authority            | 37A Okl.St.Ann. § 1-106  
37A Okl.St.Ann. § 4-102  
37A Okl.St.Ann. § 3-124  
37A Okl.St.Ann. § 3-125  
37A Okl.St.Ann. § 2-148                                                                 |
| Oregon       | Exclusive or near-exclusive state preemption                                         | Or. Rev. Stat. § 471.045  
Or. Rev. Stat. § 471.315  
Or. Rev. Stat. § 471.166  
*City of Coos Bay v. Aerie No. 538 of Fraternal Order of Eagles*, 170 P.2d 389 (Or. 1946)  
Or. Rev. Stat. § 471.045  
Or. Rev. Stat. § 471.315  
Or. Rev. Stat. § 471.166  
*City of Coos Bay v. Aerie No. 538 of Fraternal Order of Eagles*, 170 P.2d 389 (Or. 1946)                                                                 |
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| Rhode Island  | Exclusive local licensing with state minimum standards      | R.I. Gen. Laws § 3-5-15  
R.I. Gen. Laws § 3-5-16  
Beachwood Inc. v. Liquor Control Adm'r, 122 A.2d 142 (R.I. 1956)                                                                          |
| South Carolina| Exclusive state licensing authority, concurrent local regulatory authority | South Carolina Constitution art. VIII-A, § 1  
S.C. Code Ann. § 61-2-70  
McKeown v. Charleston County Bd. of Zoning Appeal, 553 S.E.2d 484 (S.C.App. 2001) |
| South Dakota  | Exclusive local licensing with state minimum standards      | S.D. Codified Laws § 35-4-11  
S.D. Codified Laws § 35-4-11.1  
S.D. Codified Laws § 7-8-20  
S.D. Codified Laws § 9-29-7  
S.D. Codified Laws § 35-2-11.2 |
| Tennessee     | Mixed                                                        | Tenn. Code Ann. § 57-3-204  
Tenn. Code Ann. § 57-3-208  
Tenn. Code Ann. § 57-5-103  
Dallas Merchant's and Concessionaire's Ass'n v. City of Dallas, 852 S.W.2d 489 (Tex. 1993) |
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| Wisconsin  | Exclusive local licensing with state minimum standards  | Wis. Stat. Ann. § 125.10  
Wis. Stat. Ann. § 125.25  
Wis. Stat. Ann. § 125.26  
Wis. Stat. Ann. § 125.27  
Wis. Stat. Ann. § 125.51  
*Eichenseer v. Madison-Dane County Tavern League*, 748 N.W.2d 154 (Wis. 2008) |

1 CDC’s Prevention Status Reports: Excessive Alcohol Use. Available at: [https://wwwn.cdc.gov/psr/NationalSummary/NSARH.aspx](https://wwwn.cdc.gov/psr/NationalSummary/NSARH.aspx)