



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 preempting 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

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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

State	Preemption Category	Citation(s)
Alabama	Mixed	Ala. Code § 28-3A-12 Ala. Code § 28-3A-13 Ala. Code § 28-3A-14 Ala. Code § 28-3A-15 Ala. Code § 28-3A-16 Ala. Code § 28-3A-16 Ala. Code § 28-3A-23
Alaska	Exclusive state licensing authority, concurrent local regulatory authority	Alaska Stat. § 04.11.070 Alaska Stat. § 04.11.320 Alaska Stat. § 04.11.420 Alaska Stat. §04.21.010
Arizona	Exclusive or near-exclusive state preemption	Ariz. Rev. Stat. § 4-112 Ariz. Rev. Stat. § 4-201 Ariz. Rev. Stat. § 4-224
Arkansas	Joint local/state licensing and regulatory powers	Ark. Code Ann. § 3-4-202 Ark. Code Ann. § 3-2-205 Ark. Code Ann. §3-5-211 Ark. Code Ann. §3-5-212 Ark. Code Ann. §3-5-213
California	Exclusive state licensing authority, concurrent local regulatory authority	California Constitution art. 20, § 22 Cal. Bus. & Prof. Code § 23790 <i>City of Oakland v. Superior Court</i> , 45.Cal. App.4th 740 (1996), review denied
Colorado	Joint local/state licensing and regulatory powers	Colo. Rev. Stat. § 44-3-304 Colo. Rev. Stat. § 44-3-301 Colo. Rev. Stat. § 44-4-107 Colo. Rev. Stat. § 44-3-302

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State	Preemption Category	Citation(s)
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 Fla. Stat. Ann. § 562.45 Fla. Stat. Ann. § 561.29 <i>City of Miami v. Kichinko</i> , 22 So.2d 627 (Fla. S.Ct. 1945), overruling in part <i>Miami Beach v. State ex rel. Patrician Hotel</i> , 200 So. 213 (Fla. S.Ct 1941) <i>Hardage v. City of Jacksonville Beach</i> , 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 <i>Bradshaw v. Dayton</i> , 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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State	Preemption Category	Citation(s)
Indiana	Exclusive state licensing authority, concurrent local regulatory authority	Ind. Code Ann. § 7.1-2-4-6 Ind. Code Ann. § 7.1-3-9-2 Ind. Code Ann. § 7.1-3-9-6
Iowa	Exclusive state licensing authority, concurrent local regulatory authority	Iowa Code Ann. § 123.30 Iowa Code Ann. § 123.32 Iowa Code Ann. § 123.37 Iowa Code Ann. § 123.39
Kansas	Exclusive state licensing authority, concurrent local regulatory authority	Kan. Stat. Ann. § 41-301 Kan. Stat. Ann. § 41-2702 Kan. Stat. Ann. § 41-2708 Kan. Stat. Ann. § 41-208 Kan. Stat. Ann. § 41-2704
Kentucky	Exclusive or near-exclusive state preemption	Ky. Rev. Stat. Ann. § 241.060 Ky. Rev. Stat. Ann. § 241.080 Ky. Rev. Stat. Ann. § 241.110 Ky. Rev. Stat. Ann. § 241.140 Ky. Rev. Stat. Ann. § 241.170 Ky. Rev. Stat. Ann. § 241.190 Ky. Rev. Stat. Ann. § 243.060 Ky. Rev. Stat. Ann. § 243.070
Louisiana	Joint local/state licensing and regulatory powers	La. Rev. Stat. Ann. § 26:271 La. Rev. Stat. Ann. § 26:81 La. Rev. Stat. Ann. § 26:281 La. Rev. Stat. Ann. § 33:4785
Maine	Mixed	Me. Rev. Stat. Ann. Tit. 28-A, § 1201 Me. Rev. Stat. Ann. Tit. 28-A, § 1051 Me. Rev. Stat. Ann. Tit. 28-A, § 453

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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 <i>Montgomery County v. Mossburg</i> , 180 A.2d 851 (Md. 1962) <i>Park v. Board of Liquor License Com'rs for Baltimore City</i> , 658 A.2d 687 (Md. 1995) <i>Piscatelli v. Board of Liquor License Com'rs</i> , 837 A.2d 931 (Md. 2003)
Massachusetts	Joint local/state licensing and regulatory powers	Mass. Gen. Laws Ann. ch. 138, § 4 Mass. Gen. Laws Ann. ch. 138, § 12 Mass. Gen. Laws Ann. ch. 138, § 15
Michigan	Mixed	Mich. Comp. Laws Ann. § 436.1501 Mich. Comp. Laws Ann. § 436.1209 Mich. Comp. Laws Ann. § 436.1405 Mich. Comp. Laws Ann. § 436.1525 Mich. Admin. Code r. 436.1003 <i>Maple BPA, Inc v. Bloomfield Charter Twp.</i> , 838 N.W.2d 915 (Md. Ct. App. 2013)
Minnesota	Exclusive local licensing with state minimum standards	Minn. Stat. Ann. § 340A.401 Minn. Stat. Ann. § 340A.405 Minn. Stat. Ann. § 340A.410 Minn. Stat. Ann. § 340A.413 Minn. Stat. Ann. § 340A.415
Mississippi	Mixed Spirits, wine: Exclusive State preemption. Beer: Concurrent local zoning	Miss. Code Ann. § 67-1-51 Miss. Code Ann. § 67-3-65

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State	Preemption Category	Citation(s)
Missouri	Mixed	Mo. Ann. Stat. § 311.170 Mo. Ann. Stat. § 311.200 Mo. Ann. Stat. § 311.220 <i>State ex rel. Hewlett v. Womach</i> , 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 <i>Town Pump. v. Board of Adjustment of City of Red Lodge</i> , 971 P.2d 349 (Mont. 1998)
Nebraska	Exclusive state licensing authority, concurrent local regulatory authority	Neb. Rev. Stat. § 53-117 Neb. Rev. Stat. § 53-132 Neb. Rev. Stat. § 53-134.03 <i>City of Lincoln v. Nebraska Liquor Control Com'n</i> , 626 N.W.2d 518 (Neb. 2001) <i>City of Lincoln v. Nebraska Liquor Control Commission</i> , 147 N.W.2d 803 (Neb. 1967)
Nevada	Exclusive local licensing with state minimum standards	Nev. Rev. Stat. § 244.350 Nev. Rev. Stat. § 369.180 Nev. Rev. Stat. § 369.230
New Hampshire	Exclusive or near-exclusive state preemption	N.H. Rev. Stat. Ann. § 177:11 N.H. Rev. Stat. Ann. § 178:1 N.H. Rev. Stat. Ann. § 178:3 <i>Casico, Inc. v. City of Manchester</i> , 702 A.2d 302 (N.H. 1997)
New Jersey	Exclusive local licensing with state minimum standards	N.J. Stat. Ann. § 33:1-5 N.J. Stat. Ann. § 33:1-19 N.J. Stat. Ann. § 33:1-24 N.J. Stat. Ann. § 33:1-32 N.J. Stat. Ann. § 33:1-40 <i>Zicherman v. Driscoll</i> , 45 A.2d 620 (N.J.Sup. 1946)

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State	Preemption Category	Citation(s)
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 <i>People v De Jesus</i> , 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 <i>Westlake v. Mascot Petrol</i> , 573 N.E.2d 1068 (Ohio 1991) <i>Ridgley v. Board of Zoning Appeals, City of Wadsworth</i> , 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 <i>City of Coos Bay v. Aerie No. 538 of Fraternal Order of Eagles</i> , 170 P.2d 389 (Or. 1946)

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Pennsylvania	Exclusive state licensing authority, concurrent local regulatory authority	47 Pa. Cons. Stat. Ann. § 2-207 47 Pa. Cons. Stat. Ann. § 4-493.1 <i>Petition of Hilovsky</i> , 108 A.2d 705 (Pa. 1954) <i>Aboud v. City of Pittsburgh Dept. of Planning</i> , 17 A.3d 455 (Pa. Cmwlth. Ct. 2011)
Rhode Island	Exclusive local licensing with state minimum standards	R.I. Gen. Laws § 3-5-15 R.I. Gen. Laws § 3-5-16 <i>Beachwood Inc. v. Liquor Control Adm'r</i> , 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 S.C. Code Ann. § 61-2-80 <i>Denene, Inc. v. City of Charleston</i> , 574 S.E.2d 196 (S.C. 2002), rehearing denied, on subsequent appeal 596 S.E.2d 917 (S.C. 2004). <i>McKeown v. Charleston County Bd. of Zoning Appeal</i> , 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 <i>Templeton v. Metropolitan Government of Nashville and Davidson County</i> , 650 S.W.2d 743 (Tenn. Ct. Cpp. 1983)
Texas	Mixed	Tex. Alco. Bev. Code Ann. § 61.01 Tex. Alco. Bev. Code Ann. § 11.01 Tex. Alco. Bev. Code Ann. § 109.57 Tex. Alco. Bev. Code Ann. § 109.31 Tex. Alco. Bev. Code Ann. § 109.32 <i>Dallas Merchant's and Concessionaire's Ass'n v. City of Dallas</i> , 852 S.W.2d 489 (Tex. 1993)

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State	Preemption Category	Citation(s)
Utah	Joint local/state licensing and regulatory powers	Utah Code Ann. § 11-10-1 Utah Code Ann. § 32B-7-201 Utah Code Ann. § 32B-2-202 Utah Code Ann. § 32B-1-204 Utah Code Ann. § 32B-6-703 Utah Code Ann. § 32B-6-704
Vermont	Mixed	Vt. Stat. Ann. tit. 7, § 166 Vt. Stat. Ann. tit. 7, § 167 Vt. Stat. Ann. tit. 7, § 222 Vt. Stat. Ann. tit. 7, § 223 Vt. Stat. Ann. tit. 7, § 210 <i>In re Judy Ann's</i> , 464 A.2d 752 (Vt. 1983)
Virginia	Exclusive state licensing authority, concurrent local regulatory authority	Va. Code Ann. § 4.1-128 Va. Code Ann. § 4.1-129 Va. Code Ann. § 4.1-205 Va. Code Ann. § 4.1-206 <i>City of Norfolk v. Tiny House</i> , 281 S.E.2d 836 (Va. 1981) <i>County of Chesterfield v. Windy Hill</i> , 559 S.E.2d 627 (Va. 2002)
Washington	Exclusive or near-exclusive state preemption	Wash. Rev. Code Ann. § 66.08.120 Wash. Rev. Code Ann. § 66.24.010
West Virginia	Mixed	W. Va. Code § 60-4-1 W. Va. Code § 11-16-8 W. Va. Code § 60-3A-6 W. Va. Code § 60-3A-7 <i>Longwell v. Hodge</i> , 297 S.E.2d 820 (W. Va.1982) <i>Brackman's v. City of Huntington</i> , 27 S.E.2d 71 (W. Va. 1943)

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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 <i>Eichenseer v. Madison-Dane County Tavern League</i> , 748 N.W.2d 154 (Wis. 2008)
Wyoming	Exclusive local licensing with state minimum standards	Wyo. Stat. Ann. § 12-4-101 Wyo. Stat. Ann. § 12-4-201

¹ CDC's Prevention Status Reports: Excessive Alcohol Use. Available at:

<https://wwwn.cdc.gov/psr/NationalSummary/NSARH.aspx>

² CCH's Liquor Control Law Reporter. Available at: <https://www.cchgroup.com/roles/federal-government/accounting-and-audit/research/liquor-control-law-reporter>