

# **Mackinac Center for Public Policy**

## **Issues and Ideas Forum**

### **“Beer Glut: The Overregulation of Alcohol in Michigan”**

#### **Speakers:**

**Antony Davies,  
Associate Professor of Economics,  
Duquesne University**

**C. Jarrett Dieterle,  
Director of Commercial Freedom Policy and Senior Fellow  
R Street Institute**

**Jim Storey,  
Owner, StoreyLine Communications;  
Former Member, Michigan Liquor Control Commission**

#### **Introduction and Moderator:**

**Jarrett Skorup,  
Director of Marketing and Communications,  
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JARRETT SKORUP: Good afternoon. Afternoon. Thanks for coming out and attending this Mackinac Center event, “Beer Glut: The Overregulation of Alcohol in Michigan.”

So we have a great panel for you today on this issue. If you have – the way this is going to work, they’re each going to speak for eight minutes or so and then we’ll do questions from the audience. So, if you can – you’ve got cards on your table – write down questions you might have. We’ll come around, pick them up. That helps us make sure we’re not getting duplicate questions and things like that. So, if you think of them as we go along, go ahead and do that.

With backyard wineries, micro-distilleries, and craft breweries popping up all over the place, Michigan’s home to a diverse assortment of alcohol producers. But the local beer, wine, and liquor industries have to navigate through a mountain of alcohol regulations far above those in most surrounding states. Michigan’s rules about alcohol production, distribution, and sales are complex. The state has restrictions on what can be produced, a strict monopoly system for distribution, and imposes price controls on those selling. Many of these regulations were originally crafted 80 years ago in the post-Prohibition era.

So what are the effects? Defenders of the status quo argue the current system is necessary to protect the alcohol-consuming public from itself, while reformers say Michigan’s rules hamper competition, increase costs, and provide little in terms of tangible health and safety effects. This panel will discuss Michigan’s current regulatory system, present research on compared to other states, and offer different regulatory options for Michigan policymakers to consider.

Our first speaker is Dr. Antony Davies. He’s an associate professor of economics at Duquesne University in Pittsburgh. Dr. Davies authors monthly columns on economic and public policy for the Philadelphia Inquirer and U.S. News & World Report; and co-hosts the popular Words & Numbers, a weekly podcast on economics and policy.

Then we’ll hear from Jarrett Dieterle. He’s director of commercial freedom policy and a senior fellow for the R Street Institute in Washington, D.C. His research and writing focuses on regulatory affairs, occupational licensing, and other commercial freedom issues, and he’s a Michigan native.

Jim Storey served as a member of the Michigan Liquor Control Commission. He operates StoreyLine Communications, a Holland-based public-relations liquor license consulting and campaign management firm.

So, Dr. Davies, you can start us off.

ANTONY DAVIES: Thank you. I have to have a timer. Jim and I were talking. I’m an academic. He’s a – was a politician. And if you don’t put a timer on us, we’ll just keep going. (Laughter.)

One of the more underrated features of the way we govern in the U.S. is what Justice Louis Brandeis called the “laboratories of democracy.” When fallible humans set rules for other fallible humans to live by, it’s most likely that the behavior that emerges ends up being a lot different than what the rule-setters had in mind when they set the rules.

So the benefit of governing at a state level as much as possible is that we get 50 different experiments in rule-setting that can help us distinguish good rules from bad rules. This is a principle of Catholic social thought called subsidiarity; that is, govern at the lowest possible level. And when you do that, you create amongst the political entities the same sort of competition that exists among businesses in the market place. And that same dynamic that encourages businesses to continually reform and improve what they’re doing, that then starts to work in the political sphere as well.

With alcohol control, we now have years of experimentation. We have states that have run the gamut from monopolizing both the retail and wholesale markets for alcohol, to monopolizing the wholesale market and only part of the retail market, to monopolizing the wholesale market and not the retail market, to monopolizing neither. And so we have this suite of experiments in alcohol control.

This has given economists a tremendous dataset to look at and compare how these different laboratories are performing with regard to the efficacy of their rule-setting. And if the problem’s not complicated enough when you think about alcohol control, when you think about efficacy it becomes even more complicated. There are studies that have looked at the effect of alcohol control on alcohol consumption, the idea being that less alcohol consumption is considered more efficacious. There are studies that look at alcohol-related deaths, and of course fewer alcohol-related deaths are considered more efficacious. There are studies that look at alcohol-related vehicle deaths, distinguished from alcohol-involved vehicle deaths – and there’s a distinction between these two. Some have looked at underage drinking. Some have looked at underage binge drinking. So we have this suite of studies that are applied to this suite of experiments in alcohol control.

Taken as a whole, at best the results indicate that there isn’t really a compelling connection between state control and efficacious outcomes. At worst there are – there is a hint of a suggestion that under certain circumstances more – heavier state control is actually associated with worse outcomes, which of course is the opposite of what we would hope. What we do know from the research is that the link between alcohol controls and efficacy is fraught with uncertainties and contradictions. In short, it’s complicated.

So I’d be happy to provide a – I have a nice summary of the research that shows what people have looked at and what results they’ve come to, but I’ll give you just some highlights.

A study of 111 California cities found that an increase in the density of off-site licenses – that is, more establishments per square mile that sell alcohol to be consumed off-premises – the more you get of that, of course, you would – the knee-jerk reaction is you would assume that you get more density, you’ll have more alcohol-related problems. And, in fact, what they find in this California study is that the higher density is actually associated with a decline in fatal alcohol-

related vehicle accidents. Now, conversely, it's also associated with an increase in non-fatal accidents, right – as if the higher density encourages people who have had a bit to go drive to the store and come home, and some of them are in accidents, but the higher density meaning they have greater access to alcohol, so once they have enough they just stay home. And so you don't get the fatal accidents, right? I don't know how to interpret that, but this is – this is one of these examples of the somewhat contradictory results you get.

A study of drinking habits amongst public university students found that increase density of retail establishments was associated with an increase in self-reported alcohol consumption. Now, here you have a problem that you have with many of these studies: When it comes to self-reporting of alcohol consumption, you're going to get a bias on both sides. On one side people who are going to tend to report less alcohol consumption, either from shame or embarrassment or what have you; and others, through self-aggrandizement, are going to report more alcohol consumption than what they actually have.

On top of that, you've got a – you've got a causality problem here. It's not enough to say, well, if you have more retail establishments you'll also have college students who drink more. The natural assumption is that what that results tells us is greater density of retail establishments cause more drinking, when in fact it could very well be the other way around. In fact, in some sense it might make more sense it's the other way around; that if you have a concentration of people who are heavy alcohol consumers the market will follow and, of course, you'll tend to get a higher density of retail establishments.

Studies of alcohol privatization, there are a number of states – Maine, Alabama, West Virginia, several others – that over the course of the past 30-40 years have gone from a position of heavy alcohol control to much less alcohol control, to privatization. And what a number of studies have found is that when you privatize the alcohol sales, wine sales rise, but beer and liquor sales don't. And we found – researchers have found that in Maine and Alabama. Another study, in West Virginia, found the opposite; that when you privatize beer sales go up, but wine and liquor sales don't. And then, to further add to the confusion, subsequent studies showed that the increase in wine sales that the previous studies found were only temporary; that if you run time forward long enough, what you find is that the privatization was associated with an increase in wine consumption, and then within about three, four, five years the wine consumption drops back down to the level it was at prior to the privatization.

A colleague and I attacked this problem. And unlike previous studies that have tended to classify states as control states or not control states, we looked at a suite of controls. So we look at the gamut from low control to lighter control to moderate to heavy control and ask the question: If you divide the states this way, by degree of control rather than a binary we control alcohol versus we don't, and compare it to outcomes, what do you find? And we found in this study was no clear relationship between the degree of control and the outcomes, with a possible exception that control of wholesale markets – depending on what efficacious outcome you're looking at, control of wholesale markets by the state on occasion exhibited better outcomes than either control of retail and wholesale markets or control of neither. Now, I'll come back to that in a moment.

The conclusion that I would leave you with is this. As with all regulations, if we treat the government as a magic wand, we're not going to get the outcomes we expect. It's incentives, not legislation, that alter people's behavior. For example, monopolizing in state-controlled retail sales and then instructing state employees not to – not to sell to minors ignores incentives. But licensing a private retailer and then telling the private retailer that you'll lose your license if you sell to minors does co-opt incentives.

And you – a good example of this is Colorado. And it's not alcohol, it's marijuana. Colorado, as you know, legalized marijuana. And if you look at studies of underage marijuana consumption, they've been falling steadily since marijuana was legalized. Now, that's counterintuitive until you step back and realize that with marijuana now being legal, entrepreneurs have the ability to invest significant amounts of money in marijuana shops, which they do – the license to which they will lose if they are caught selling to minors. So all of a sudden there's a – you've co-opted the profit incentive to give the sellers the incentive not to sell to minors. And, in fact, if you look at Colorado now, it's typical that you walk into a place and there's a – like with a – there's a thing, you walk in the door and you're caught here because the door is locked, and you have to show your ID. They won't even let you into the store if you're a minor. This is the extent to which these retailers are protecting the investment they've made.

So the long and the short of the whole thing is I would, as an economist, caution you in waving government as a magic wand, in thinking that legislation is going to achieve the outcomes you want; but, rather, thinking carefully about the incentives that the legislation creates and thinking about how people will respond to those incentives. (Applause.)

C. JARRETT DIETERLE: Thank you. As the other Jarrett said, my name is also Jarrett, and I work at the R Street Institute think tank in Washington, D.C. and study alcohol policy. Excited to be here today because it's always an interesting blend of my favorite topic, alcohol, and my least-favorite topic, government overregulation. (Laughter.)

I think it's important to realize kind of where we've come from and why we're kind of in the current regulatory structure that we are today with regards to alcohol and the 50 different state models that Professor Davies mentioned. Booze and government have basically been intertwined from the beginning of American history. I think a lot of people here are probably familiar with the Whiskey – the Whiskey Rebellion. The backcountry distillers at the time kind of were very resentful of the whiskey tax that President Washington and Treasury Secretary Alexander Hamilton passed at the time, and that kind of just set off this kind of antagonistic relationship, in some ways, between alcohol and government.

Of course, most infamously eventually Prohibition arose in America. There's a lot of policy lessons that I think are really interesting from the Prohibition era that we maybe can get into a little bit. But I think most importantly for today's purposes is the post-Prohibition era, of course, when the federal government got out of the business of booze and the states kind of had this rush to regulate and step in and kind of fill this void. And just because Prohibition was gone, a lot of the influences of that era that led to it – the temperance movement, the progressive movement – a lot of those currents were still going on even in the post-Prohibition era, and

because of that a lot of those influences kind of were trying to adopt different models for the states to implement, basically, to still control people's access to alcohol even after Prohibition.

So that's where you know, ideas like control states arose, where the government, you know, would actually control the entire wholesale/retail process of alcohol, run government liquor stores. My current state of residence, Virginia, is a state that still has government-run liquor stores. There's 13 states that still do. It's also where the licensing model, the three-tier system, kind of got implemented. And it's these kind of structures, even though they're 70-80 years old, that we – are kind of responsible still for the current regulatory regime that we live in, basically, with regards to alcohol.

It's interesting; everyone always cheers, you know, celebrates – Repeal Day has now become a thing. And everyone kind of is like, oh, Repeal Day, like, we'll go out to a bar, celebrate, you know, this is such a great moment for American freedom. But it's interesting, really, if you – if you kind of look at the language of the 18<sup>th</sup> Amendment, which instituted Prohibition, and the language of the 21<sup>st</sup> Amendment, which got rid of it, it's very striking how similar they are, actually. One said that the federal government could basically prohibit – or prohibited the manufacture and sale of intoxicating liquors; and the other one says that the manufacture, transportation, importation into any state of intoxicating liquors in violation of the state laws was prohibited. So essentially it kind of just took the power, the ultimate power the federal government had, and gave it to the states.

So today, as I said, where does that leave us? So we – almost every state has its version of the three-tiered system; requires a legal separation between the producers, the wholesalers, the retailers. The idea is to prevent vertical monopolies and tied houses, as they're called. And because of that, it creates a government-created middleman, a monopoly basically, at the wholesaler level. It inserts an extra layer into the distribution system. And unsurprisingly, when a government-created monopoly is created, there is a lot of vested interest trying to protect that. And so it makes going about reforming alcohol laws at the state level very difficult because there's a lot of interest groups that are trying to kind of keep the status quo in place.

And a lot of these kind of funny laws that we see with regards to alcohol in different states, again, are these kind of holdovers, these vestiges of this post-Prohibition era that we've been unable to reform. I always kind of like to list off some of my favorite – I call them the wackiest booze laws around the country – when I talk about alcohol policy.

A neighboring state of Michigan, Indiana, has their infamous warm-beer law where gas stations and convenience stores are actually banned from selling cold beer. They literally have to sell warm beer to you. The English like warm beer, but that's not really an American thing that I've seen.

Utah's Zion Curtain, as they call it. Bartenders in some restaurants there – they've tweaked it a little bit, but are still basically required to make cocktails behind a partition so that the restaurant can't see them.

Virginia, it's actually – again, my current state of residence – it's illegal to advertise happy-hour specials. So restaurants literally cannot say that, hey, you know, we have a Sunday funday, we're doing, you know, a brunch with bottomless mimosas. They can't, you know, advertise, you know, \$2 beers on Thursday. That's actually being challenged on First Amendment grounds right now.

And until recently Michigan had its own kind of version of a quirky/wacky rule, the Michigan half-mile rule, which was just kind of this blunt geographic restriction on where liquor stores could be in proximity to each other. They couldn't be closer than a half-mile.

And so all these – these things are kind of these funny, weird laws where you kind of go, what? Like, where did that law come from? Again, it all kind of arose from this history, and I think that's important to understand when we talk about the best way to kind of move forward and reform that structure.

And then the last thing I'll leave you with, that I always like to emphasize, is why do we care? I think a lot of people look at alcohol policy and, you know, maybe they don't realize, you know, how a state's higher taxes are making their alcohol more expensive, maybe they don't really care. Well, I get my beer anyways; it doesn't matter that there's this kind of arbitrary distribution system. But the reason it matters is that the alcohol craft-spirits industry, if you haven't noticed, is booming right now. It's one of the big growth industries in the country. And it's kind of – the thing that we're – that kind of leaves you wondering what it – could it be even more robust? Could it be growing even more kind of without these government strictures that are in place?

Bloomberg did an analysis the other week that breweries, wineries, and distilleries are producing the second-most manufacturing jobs of any industry in the country; which is like stunning, but it makes a lot of sense, right? These are blue-collar manufacturing jobs. These are the kind of things that policymakers love emphasizing and saying that they're in support of. And yet, we have all these barriers in place that are preventing the industry from being even bigger.

And so, you know, these laws hurt entrepreneurial people that are trying to grow businesses in local communities. These aren't jobs that are being, you know, outsourced. They're jobs in local communities. And they're kind of operating this new-age phenomenon of the craft-spirits market in the context of a 70-80-year-old regulatory regime.

So I'm excited to talk more about this in the Q&A, but that's a little bit of the lay of the land of where we came from and where we are now. So I'll turn it over to Jim. (Applause.)

JIM STOREY: Thank you. Well, good afternoon. I really appreciate the – again, my name is Jim Storey. And I'm from Holland, which has had a long love affair with regulating alcohol. And so I thank you for this opportunity to discuss deregulating the safe service of one of the most common beverages in the history of the world. Other than the base ingredient, water, I doubt there is any other consumable with as long a history as alcohol in its most popular forms. And I want to thank the Mackinac Center and Jarrett Skorup for, you know, organizing this discussion.

First, I want to say that alcohol is a substance that needs to be regulated for the narrow – very narrow – purpose of protecting public health and safety. You know, protecting our children and communities from abuse of this substance is a legitimate government regulation. In my mind there should be simple regulations, though, that focus licensees and the state agencies that issue them on basically three premises: one, not selling to minors, either directly or indirectly; not overserving patrons; and, finally, assuring that those who are licensed for the manufacture, distribution, or sale of alcohol are free of entanglements with criminal elements and they themselves are not abusers of alcohol.

All of these three elements I just mentioned are enshrined in the Michigan Liquor Control Code today. Not only should they remain; the regulators, the investigators, the state agency should be freed from the burden of policing the marketing of alcohol so that they can more vigorously protect public health and safety through focusing on the enforcement of these anti-abuse regulations.

I want to congratulate Liquor Control Commission Chair Andy Deloney and Commissioners Quimby and Olshove, who were all appointed by Governor Snyder, for their hard-earned efforts over the last seven years to remove some of the sillier regulations they inherited and which do not support the core mission of the liquor control agency, which is, again, protecting public health and safety.

Getting the state out of regulating where liquor stores are situated, as was referenced just a few moments ago by Jarrett, in the – in their community is their most well-known effort. But to understand it is a great example of how difficult it is to change the regulation of this industry, it took them seven years of effort to do that.

Another is the introduction of conditional licenses for on-premise license applicants and beer-and-wine takeout store applications. Distilled-spirit package license applicants such as liquor stores are not eligible for this long-needed change to speed up the licensing process, but hopefully that will come soon.

Before (this means of ?) conditional licenses to the marketplace for entrepreneurs was introduced, it was common for license applications to take three, sometimes to six months to wind their way through the many hands in the agency that handled the paperwork. I know the commissioners and their staff under several governors have advocated changes to make licensing predictable and reasonable from time to time, but not with a lot of effort.

I do want to share with you that though reform may be on the way, on my way here I picked up my morning friendly, and it's the Holland Sentinel. But it says: "City Loosens Alcohol License Rules." And in that article it points out – and this is the city of Saugatuck, which generally has been favorable for alcohol sales. It points out in the article that though the city is loosening its regulations, the state regulations are still going to stay in place, which make it a very long and tedious process – profitable for me personally, but a long and tedious process for someone who wants to get into the business.



Well, this whole licensing situation was addressed well by a task force a dozen years ago on which I served and whose recommendations were promptly ignored without debate or discussion. Let me just tell you about the licensing process for a minute. And I do have a little aid here. If you apply for a license, you go into a funnel with a lot of other applicants. And it swirls around in here, goes to Lansing, where they say, well, is the license application complete or not? And if not, you get a letter saying there is a deficiency. And that takes a week or two to find its way to you and for you to get the response. Then they evaluate the license application again and say, well, OK, now we'll authorize it for investigation. So then it goes out to the field for a field investigator to go investigate you and your property and whether you should be licensed to sell alcohol. After about 35 days it goes back into Lansing, and then the investigator's report is evaluated by another set of staff before it actually goes to the commissioners to make a decision on whether you should be licensed. So reforming that process – and, of course, the bottom of the funnel is the commission. So that is one of the bottlenecks of the process.

Our task force recommended that we use the commission's four regional offices and empower them to make all of the licensing investigations before it came to Lansing, you know, saving, we estimated, upwards of three, perhaps four weeks just in transit back and forth from Lansing to the field.

Licensing – reforming the licensing process itself is important. But also, more important, is to get off the books marketing regulations that are unique to the licensed entities that produce, distribute, and sell alcohol. Under the ruse of protecting public health and safety, these marketing regulations are really protections from businesses from making decisions they don't want to make. It's much easier to say, as someone who's asking you for something – whether it be glasses or paraphernalia of any sort – it's much easier to say the law prevents us from doing that than it is to evaluate how best to deploy the scarce business resources that you have.

One recently retired small brewer cites the recent Short's Brewing declaratory ruling in which the commission concluded current law and regulation allows bar workers to wear shirts that promote a specific beer product but are not allowed to wear shirts with the name of the brewery that makes the product. So how does that protect public health and safety? And what resources of the agency will be directed away from combatting alcohol abuse to monitor the shirts worn by the hospitality industry employees?

Another is the most recent implementation of a law that requires salespeople of wholesalers, brewers, wineries, and distillers to complete a course in the marketing rules embedded in state law. This certificate of completion – which I passed – cost \$100. And it is issued not by the commission but the unit of a pressure group. Since April 15th when the law took effect, this certificate is now required if you want to be licensed by the commission and employed in the sales capacity by a manufacturer or distributor. The \$100 fee, by the way, is in addition to the state sales license fee.

And what does this course teach? In the \$10 a minute course, it outlines what logoed promotional products are legal for retail licensees to have, which ones are illegal, how much a manufacturer or distributor can spend doing promotional work among bars and restaurants,

convenience stores and grocery stores, where promotional advertisements can be placed and, interestingly, how it's illegal for a manufacturer or wholesaler to paint a retail licensee's building, but it's lawful for manufacturers to fund painting the beer trucks of distributors.

My favorite story, finally, on the waste of time and resources in enforcing the marketing laws, is from when I accompanied an undercover operation testing the compliance with the 21-year-old law – not selling to people under 21. While waiting for a manager to be told his staff had just sold to a minor, two experienced liquor investigators were engaged in a pretty vigorous debate on the legality of a certain advertising item hanging from the ceiling. Asking about the debate, the duo pointed to a black papier-mâché bowl bearing the Cuervo name. They were debating whether it violated the marketing rules because it was also a piñata, and therefore could be cited as a violation because it had a dual use – advertising and a piñata. True story.

Ironically, the new marketing certification test implemented last month does not require manufacturers or distributors, sales people, to pass an alcohol management class, as is required of on-premise supervisors. So except for those rules which fall under preventing product abuse – such for two-for-one price drink specials or giving away alcohol – it is really is past the time in this age where advertising is ubiquitous for alcohol – it comes to you right in your pocket – and those messages surround us. It's past the time to reform, repeal, and remove those rules which do nothing to advance protecting public health and safety.

Ask yourself, what is the benefit to the consuming public of rules which allow advertising for promotions only on the inside of a licensed establishment, but outlaw it outside? How does prohibiting logoed coasters, but allowing logoed bar mats, advance temperance? The list can and does go on, and on, and on. As Saugatuck discovered, it's time to loosen the alcohol marketing rules. They only hinder the independent entrepreneur, which is the cornerstone of lively, strong, Michigan communities. Thank you. (Applause.)

MR. SKORUP: All right. Thank you, guys. So as I said, if you have questions write them down. We'll have some people going around picking them up. I'll start us off with one.

So kind of the general of your comments are a lot of rules, really confusing, states regulate these in 50 different ways. We can generalize on those a little bit. But we haven't seen a ton of the evidence that this is actually doing what you'd want the regulation to do, which is just, you know, protecting consumers, preventing underage consumers and preventing drunk driving. So how do we get these rules? Who fights for them? Why do they hang around? Why can we not sit down, have a rational conversation, and get rid of them?

MR. STOREY: All right, I'll take it. Well, it's industry groups, frankly, get together. I mean, I have a news bulletin for you: It's an election year. And a number of people are running for office. And they need campaign cash. And the liquor industry particularly is very, very active in raising donations for candidates and, of course, when the election's over, you know, they usually have something they want done or not done, in this case. In Michigan, it's usually not done. I had one retired state senator tell me a few years ago that this favorite meeting was with certain liquor industry pressure group because they never asked him for anything. They just didn't want the rules to go away, all the marketing rules. They were very happy with it, because

it protected them from having to choose between, say, a Meijer's or a Spartan Store for promotions and those kind of business decisions, which are common in every other industry. So the rules – the marketing rules, particularly – all arise from the industry, in my opinion.

MR. DAVIES: Yeah, this goes back to Jim's discussion of protecting the public safety. This is something we can call get behind. Yet, once we decide that the government is going to have carte blanche to protect public safety, we then invite industries – and remember, they're going to follow their incentives – to co-opt that regulation. My guess is that, you know, Jarrett, you were talking about the law that says that you can't have more than one establishment within so many miles of an existing one. My guess is, somebody owned a couple of bars in key locations in some high-population area and pushed for this law because under that law it would not be possible for anyone to open a competing bar in that high-population area. And so what you have is the industry having an incentive to co-opt the laws that are intended to protect the public safety for their own benefit.

MR. DIETERLE: Yeah, I think that's exactly right, what was just – both of you just said. I always like to tell the story of Virginia, where I live. The distilleries there are essentially limited to giving – if someone comes to the distillery to try their spirits, they only can basically serve them one ounce at a time, and only up to three ounces. And so there's been, you know, real effort, understandably, by the distillers to get rid of that rule, because it really hurts their business, especially the craft spirits. It's kind of how you market at that hyper-micro level.

And of course, the restaurants in the state were like, well, why would we support that? Because now, like, we are the only ones that are really allowed to serve stuff, in kind of an unlimited fashion like that. Obviously, you can't overserve people. There's still those rules. But they ran into resistance from them. They ran into resistance from the beer interests, which don't have those restrictions in Virginia. And so, you know, it's very much a situation where kind of there's very concentrated interests that are trying to protect the status quo. And then the benefits to people are usually very dispersed and smaller.

So, you know, maybe it would allow you to have a little bit more access to certain craft beer you like, but that's, again, a very dispersed thing across a huge amount of consumers. They're getting a benefit out of it. And the cost of that is tremendously high to the people that have an interest in the current system. So I think that that dynamic plays itself out time and again in the alcohol market.

MR. SKORUP: All right. We have two questions related to the same issue, but kind of taking different angles on it. So I'll put them together. First, how would removing the state excise taxes – all non-sales taxes on alcohol – affect the craft beer market in Michigan? And then someone else says, you know, potentially you could sin taxes to discourage consumption, which is what some people want, but instead, you know, we have this whole complicated system that doesn't – that doesn't do that and is very inefficient. So what about not – what about just getting rid of a lot of these regulations, but jacking up the sin tax?

MR. STOREY: I guess I'll take a swing at that.

MR. SKORUP: Either or both of those options, or whatever you think.

MR. STOREY: (Laughs.) And then I'll refer to the economist here to see if I'm right or not when we talk about money. Well, you got to talk about the different level of – or, the different taxes on the different forms of alcohol. Beer has a different tax than wine has a different tax than spirits has a different tax in Michigan. As a matter of fact, in Michigan, because we are a control state, like Virginia, we don't have liquor stores anymore, but we are a control state, we are the wholesaler of spirits.

So therefore, the biggest chunk of money coming to the state from the spirits is really the wholesale price increase. And as a matter of fact, it's somewhere in the area of about 56 percent of a bottle of spirits typically in Michigan are either the wholesale price increases or various taxes, the (overall ?) tax, money for law enforcement, et cetera. And I can't remember all the divisions, but there are about four or five taxes in that bottle before it gets to your local store or bar.

The beer tax is a little different. Actually, the beer tax in Michigan has not increased since 1963. It's about 4 or 5 cents a can. Of course, then the sales tax is on top of it. So to answer your question, I don't think, you know, taxing the daylights out of beer, wine, or spirits is really going to do much to discourage consumption. Whether it's good times or bad times, you know, people who like the product are going to find it, and they're going to find a way to pay for it.

MR. DAVIES: Yeah, I think that's absolutely right. You know, it's a premise in economics that if you tax something you're going to get less of it. And so, of course, the natural reaction is just tax alcohol, we'll get less of it. And what will happen is you'll get less Michigan alcohol. You'll get more alcohol coming in from other places or, possibly, if you jack it high enough, then you start to get an illegal market developing.

But I take issue with the premise to begin with, that the goal is reduce alcohol consumption. Alcohol's fun. People like consuming this, right? It's somewhat paternalistic to say – for the state to say arbitrarily: You're consuming too much alcohol; you should consume less of it. Now, there's nothing wrong with saying, you know, we don't want drunk drivers. We don't want, you know, underage binge drinking. That's a different thing. But to say, as a general rule, we want people to consume less alcohol, that doesn't seem respectful of people's individual freedoms.

MR. DIETERLE: I think the other tricky thing with it, from what I've looked at the research about kind of how taxes and prices of alcohol will affect alcohol consumption, there is some evidence out there that, again, as we said, higher taxes, people are consuming less, there's been some pushback against that, that says, well, yeah, but that's really getting kind of the marginal drinker, the guy who's not that excited but, you know, could get a beer at the grocery store or not. You know, when the price point goes up, that's hitting him but it's necessarily hitting the person that might have an abuse problem or might be the really heavy drinker. So you have to kind of ask if that tool is actually doing what you want it to do. And I don't think it's clear at all that it is. I think it's really disputed research in that area.

MR. SKORUP: Yeah, that – to get to the specifics of one of the questions, so I think of this like cigarettes. Like, we don't really – we don't set up a three-tiered system for cigarettes or for tobacco – or, at least not in Michigan. We essentially just tax it very highly. Should we trade a system of the – you know, if that was your options on the table of getting rid of a lot of the regular structure and the price fixing and things like that and at least debate over what we're going to tax it, rather than the system now, you can keep that pretty short. But would that be more efficient?

MR. DIETERLE: (Laughs.) I guess I'd defer to the economist on that. But, yes, I guess you could argue from an economic standpoint that it would be a little bit similar to, like, the carbon tax argument – a regulatory swap for it. I guess you could argue that. I guess to me the proof would be in the pudding of whether you would actually be able to get rid of those regulations and whether that would actually be a viable compromise that the interest groups and the people that are – want to keep the status quo would actually be interested in.

MR. DAVIES: This is one of the great fallacies of taxation, that legislators have this belief that they can tax in different ways. So you tax the wholesale market, you tax the retail market, you tax this thing or that thing. And the fact is, it's all smoke and mirrors. The market is going to sort the taxes out. So the economic statement is this: You, as legislators, have no control over who pays the tax. The market's going to figure that out. You can say you're taxing the wholesalers, you're taxing the retailers, and prices will adjust to divvy that tax up between buyers and sellers in different parts of the supply chain, according to market forces that have nothing to do with the legislation.

MR. STOREY: Can I chime in on that one? Just to –

MR. SKORUP: Yes. I did want to say, I've seen the legislators we do have in the room, and I don't think any of them buy that fallacy, because we've got some good legislators here, but yeah.

MR. STOREY: And fortunately, one of them, Tommy Brann, was an operator before he was elected to the legislature. So he certainly understands this, probably better than I do. (Laughs.) But let me just say on that point, if you visit any of the border counties of Michigan, whether they are – particularly with Indiana and Wisconsin, not so much Ohio, but with Indiana and Wisconsin – and you go to a Sam's or a mass-marketer across the line, you're going to see a lot of Michigan plates there. And it's because there's, like, about a 25 percent difference in the – lower in Indiana – for the price of alcohol, spirits particularly, than in Michigan where – because they're a free state, so to speak, and we're a control state.

In Wisconsin, also a free state, and, you know, what's Wisconsin known for? Beer, right? In Wisconsin, in the counties with the Upper Peninsula, I had one of their state of Wisconsin revenue people tell me that, you know, they do an audit of one of their liquor wholesale houses, which was maybe four or five miles south of Iron River. And he said he could account only for 65 percent of the revenue due to Wisconsin coming from that establishment.

You know, even a rural area like the northern Wisconsin and the western Upper Peninsula, it still is a major money thing.

MR. SKORUP: So those – what I'm hearing is the liquor stores in Wisconsin and Indiana are also big lobbyists to keep the current system here in Michigan. Professor Davies, is there any correlation between the degree of state control and the price of alcohol?

MR. DAVIES: Yeah, that's a good question. I didn't look at that. And I'm sure some studies have looked at it. But the ones that I review were looking strictly at outcomes. However, my knee-jerk reaction is, yeah, there would have to be a correlation. The more – the more you regulate anything, the greater the cost to the market of providing that thing, and so therefore the higher the price will be. Now, it's not a one-to-one correlation. That price increase is going to be shared up the supply chain. But there is a correlation.

MR. SKORUP: So how about things like wedding venues or agritourism? How do they provide alcohol to their – to people that are attending? What kind of licensing – in the case of general licensing, how that would work? Maybe, Jim, you can –

MR. STOREY: Sure. Well, wedding venues usually are places like this. And they have – this is what's called the Class B hotel license. You know, and they can serve in any of their rooms or any of their private rooms. Interestingly, they're the only ones who can also sell, if you have an on-premise license, which is liquor by the glass – they're the only ones who can also sell bottled spirits at the same location. Otherwise, you have to have a separate physical location, under Michigan law, between on-premise and off-premise for spirits.

As far as agritourism, you know, I'm in – I'm from – I'm an Allegan County commissioner. And we're a pretty rural county. And we have quite a few people who are in the agritourism business – wineries, Fenn Valley Winery. And they're licensed as a winery. We also have several craft breweries that are growing hops. And, you know, they're licensed as either a microbrewer or a brewpub. We do not – I guess we do – we do now have a new distiller – distillery in Allegan County. And they're licensed as a small distiller which, interestingly enough. Those manufacturer license fees are the smallest in the whole gamut. You know, like a place like this pays a minimum of 600 (dollars) a year for their license. A winery pays \$100 a year. A distillery pays the same \$100 a year. And a brewery pays 150 (dollars) a year. So it's interesting for the manufacturing business, you get a break on the licensing fee.

MR. SKORUP: So we have another one kind of combining a couple questions here, but getting back to that, so who are the – kind of the big groups opposed to less regulation? Who's writing these to keep it in place? And I thought, Dr. Davies, you're in Pennsylvania. I went to college in Pennsylvania, where you had to go to state-run liquor stores. They had a big debate a couple years ago about selling off the state-run liquor stores. Could you kind of talk about that Baptists and bootleggers type fight that took place in the state?

MR. DAVIES: That's an interesting fight. And it's been going on in Pennsylvania for decades now. And the fascinating thing is the polls that are done are overwhelming. Like 60 percent-plus of polled Pennsylvanians are for privatization of our state store system. And yet,

the thing doesn't get privatized. And the major force against privatization is the state workers union, because these are all union jobs. Now, the interesting thing is the state workers union will say, well, we're against privatization in part because this is going to put a lot of American – or, a lot of Pennsylvania workers out of work. And the fact is, it probably won't put any of them out of work because when you privatize the stores the stores still exist, they still need employees, who better to hire than the people who have experience. Those are the people who used to work for the state store system. The only people who stand clearly to lose their jobs are the management of the unions, because to privatize the system would not be unionized.

MR. DIETERLE: Yeah, the other thing I'd throw in, in Virginia, again, another control state, the ABC system there is dubbed the golden goose of the commonwealth. And it kicks off an absurd amount of revenue and profit each year for the state. So every year we do, like, the same song and dance in Virginia, where, oh, this is the year we're going to finally reform some of these really bad regulations with distilleries. For example, the Virginia ABC marks up alcohol 69 percent, then they have a 20 percent excise tax and a 5 percent sales tax on top of that. The average distiller only takes home 46 percent of the money from a bottle of booze. So they're literally making under 50 percent on everything they sell.

So this year they say, well, hey, let's at least – when you go to a distillery and visit it, at least in that case let's not have this markup, right? You can do the markup at all the government-run retail stores, fine. At least for this micro thing and this small situation, let's get rid of that. And it passed the substantive committee in the legislature and then it got to the budget committee, and it was over. It was basically what happens every single year there because the legislators of Virginia have come to rely on that revenue stream, and they don't want to get rid of it. So that's, again, kind of another huge barrier to trying to reform a lot of these systems is the revenue that they kick off too, so.

MR. STOREY: Well, to answer directly the question, the biggest pressure groups in this business – you may be surprised – are not necessarily the beer manufacturers, the Budweiser's, the Coors, et cetera. It's really the beer and wine wholesalers' associations in every state. And I'll give you a quick example. Maybe four, six years ago, Washington state, which is a control state, had a proposition to allow Costco essentially to be able to sell beer directly to consumers without getting it from distributors. Well, every state wholesaler association contributed to the campaign against that. They are all very well-connected and discuss things. They weren't successful. Costco got its way. And alcohol has not ceased to flow in the state of Washington because of this, as was predicted by those who were opposed to it.

But, yes, the beer and wine wholesalers, and there's a liquor vendors association. The retail groups are actually the smallest and weakest of any groups, such as a the – what used to be called the Table Toppers, now the Michigan Licensed Beverage Association. And the convenience store owners. So in that order.

MR. SKORUP: So how low in the brewing system do you have to be to not require a license? Somebody asked: How many friends can I have over and how much can I accept payment before I need to go to the state and go through the system.

MR. STOREY: Well –

MR. SKORUP: This isn't legal advice. (Laughter.)

MR. STOREY: You're right. I am not a lawyer. Well, you are free to brew whatever you want for personal consumption, as long as you don't sell it. The minute you sell it, you're violating state law. And it doesn't matter whether it's this size or this size. But the minute you sell it, you're violating state law.

MR. SKORUP: All right. I was going to have – I have a five-year-old and a three-year-old. They were going to have a lemonade stand that I was going to make much more interesting this summer, but I guess I'll scrap – I'll scrap that. (Laughter.)

So last question – I'm sure these guys will be willing to hang around afterwards if you have some other questions for them – can you give us some successful reform examples? Antony, you mentioned that a little bit. But are some states moving in the right direction? Can you talk a little bit about that?

MR. DAVIES: Do you want to go first?

MR. STOREY: No, go. You go.

MR. DAVIES: I have to think of one.

MR. STOREY: Oh, you have to think of one? (Laughter.) Well, Indiana. Indiana actually is probably the ones that comes to mind. Up until I think it was about six months ago, you could not buy alcohol in Sunday in Indiana in any form. I take that back, you could buy beer in a supermarket. But you couldn't buy any spirits. All the liquor stores were closed. And finally Governor Holcomb got through the reform to allow the sale of alcohol in Indiana. Now, that's a further hurt going to be on our stores in Michigan along the border, because they couldn't sell on Sundays. Ours could. And, you know, now what's happened. They're not going to be crossing the border, particularly since the price is so much better in Indiana than it is for us. So that's one good one.

MR. DIETERLE: We – one of the projects that we do at my think tank is kind of track and aggregate, like, the different reform movements and bills that are kind of going around in the 50 states. And the two trends I've seen over the last year is – there's been a couple example of the Sunday sales thing, getting rid of blue laws, or at least narrowing them, you know, expanding the hours you can sell on Sunday in states like Indiana, Minnesota. Also, the other thing that we're seeing more of is a lot of states have restrictions – a lot of southern states, actually – on when you go to a brewery, when you go to a distillery, as I mentioned earlier, and you want to taste one of their products. Georgia, Louisiana, a lot of states have a lot of restrictions on that.

And there's been some piecemeal efforts to kind open that up and allow more kind of on-premise serving of alcohol by breweries, which again is kind of a vital way that they word-of-mouth market. So you're seeing that a little bit more. I think the next big wave that we're going



to see is the online marketplace in alcohol, which don't really work together super well now because of a lot of shipping laws. With wine, somewhat, although that's a little bit more liberalized in the wake of the Granholm versus Heald case, but there's still restrictions in retailers. But, you know, spirits is very difficult to ship in and out of a lot of states, and beer too.

But obviously, like, companies like Amazon are going to want to get into prime booze, for example. And that's coming. It already is coming in a lot of ways. And so I think that in the future that may be where some of the success stories are, is trying to allow people to kind of have that consumer convenience of online alcohol sales. I think a lot of people in younger generations aren't going to understand why they can have Uber Eats deliver a hamburger to their house in an hour, but they can't get a six-pack of a beer for a barbecue that they're throwing. You know, so I think that's kind of – maybe will be the next success story that I see.

MR. DAVIES: We've all four of us talked about the dangers of passing well-meaning legislation in the – with the goal of protecting the public health and health, just to have it co-opted by industry. And if you're looking for some good examples of this, I'm going to plug a friend of mine, check out – you can see their stuff on YouTube – the Institute for Justice. They – and you're looking for the term regulatory capture. And they have a tremendous number of case studies across the United States of various states or localities imposing some regulation purportedly for the public safety and health that quickly gets captured by special interest groups, and then perverted to protect the entrenched businesses at the expense of entrepreneurs.

MR. SKORUP: All right. Please thank our panel. (Applause.)

We appreciate that. So, if you're interested in these types of policy issues, we encourage you to visit us at [Mackinac.org](http://Mackinac.org). If you are interested in more events, we do these generally monthly. All kinds of different policy issues. You can go to [Mackinac.org](http://Mackinac.org) events. You can sign up to hear about them, figure out which ones you want to come to, and get a free lunch and pick up some policy while you're at it. Thank you for joining us. And we look forward to seeing you at the next one. (Applause.)

(END)