ICCPUD Community Engagement Webinar
“The Current Legal Landscape of Underage Drinking”

Elyse R. Grossman, J.D., Ph.D.
Public Health Lawyer & Policy Consultant
October 24, 2019
Alcohol consumption in the U.S. was on the rise.

As a result, drinkers and their families suffered many alcohol-related harms.

Saloons increased in number and in importance.
Vertical Integration of the Alcohol Industry

- Brewers
- Distributors
- Saloons
Prohibition & Repeal

1919 – 18th Amendment: Prohibition
- “... Sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.”

1933 – 21st Amendment: Repeal of Prohibition
- “Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.”
Three-Tier System

Manufacturers  Wholesalers  Retailers
The U.S. Supreme Court & State Alcohol Regulation

The 21st Amendment

The Commerce Clause
Granholm v. Heald

- Supreme Court decided *Granholm v. Heald* in 2005
- Overturned state laws that permit in-state, but prohibit out-of-state wineries from directly shipping to consumers
Texas suspends or takes away the driver’s license of a person under the age of 21 who is caught drinking, possessing, or purchasing alcohol.

Maine prohibits people under age 21 from drinking alcoholic beverages except at home with their parent or guardian.

Florida imposes criminal liability on people over age 18 who host underage drinking parties.

Minnesota limits alcohol outlets (such as bars and liquor stores) near schools.

California bans the sale of high-proof grain alcohol and similar beverages.

Sample Underage Drinking Policies Across the U.S.
State Performance & Best Practices (SPBP) Report

26 Evidence-Based Legal Policies

- Laws Addressing Minors in Possession of Alcohol (5)
- Laws Targeting Underage Drinking & Driving (3)
- Laws Targeting Alcohol Suppliers (15)
- Laws Affecting Alcohol Pricing (3)
Tennessee Wine & Spirits Retailers Assn. (TWSRA) v. Thomas

- Supreme Court decided TWSRA v. Thomas in 2019

- Overturned Tennessee’s durational residency requirement b/c while states have the power to regulate alcohol, they may not discriminate against out-of-state interests in doing so
1. In the immediate future, states will abandon durational residence requirements leading to an increase in out-of-state alcohol retailers offering alcohol at lower prices.

2. State courts will have to decide how to interpret this decision and apply it to current alcohol shipping cases.

3. Members of the alcohol industry will likely use this decision as the basis for challenging other alcohol-related public health laws.
   - This may lead to an erosion of the three-tier system.
Direct-to-Consumer Sales & Shipping of Alcohol

- Increased direct-to-consumer sales & shipping of alcohol

1. New legislation as tracked in the STOP Act State Performance and Best Practices Report

2. Efforts by the Uniform Law Commission (ULC)

3. Job posting by major online retailer
Moving Forward: What Can Be Done?

1. Train
2. Track
3. Test
4. Translate

The 4 T’s
Any Questions?

Elyse R. Grossman, J.D., Ph.D.
grossman.elyse@gmail.com