

# Fuelling the problem? The sale of alcohol at petrol stations in Wales



## Introduction

Drink-drive accidents can affect all types of road users, including drivers, passengers and pedestrians. A combination of law enforcement and sustained publicity campaigns has substantially reduced the number of these accidents over the last twenty years. Despite this, as many as one in six deaths on roads in the UK are caused by drivers over the legal alcohol limit.<sup>1</sup> In 2008, there were 5,183 positive or refused breath tests in Wales.<sup>2</sup>

Driving whilst under the influence of alcohol can impair an individual's judgement and therefore their ability to drive safely.<sup>3</sup> Some countries have banned sales of alcohol from garages/petrol stations,<sup>4</sup> largely as a consequence of the correlation between alcohol consumption and motor vehicle accidents. In England and Wales, however, it remains legal for petrol stations to sell alcoholic drinks, provided they have been granted the appropriate licence.

This briefing paper examines the issue of alcohol sales at petrol stations and makes proposals for future action. It is intended to stimulate and inform a greater public debate on this important issue.

## The current legal position

In England and Wales, the Licensing Act 1988 introduced a provision, section 9(4), which disqualified certain premises from obtaining a licence to sell alcohol, namely motorway service areas and premises 'used primarily as a garage'. For

motorway service areas, this represented in effect an absolute prohibition, but for garages (i.e. premises that retail fuel or premises either selling or maintaining motor vehicles) the decision on whether to grant a licence depended on the interpretation of 'primary use'. In order to demonstrate that the primary use was other than that of a garage, the applicant would usually present footfall figures or sales figures classified according to purchases.

Section 176 of the Licensing Act 2003 has largely maintained the situation from the previous legislation, with guidance from the Department for Culture, Media and Sport accompanying the Act stating that the licensing authorities must decide whether or not any premises is 'used primarily as a garage'. Again, the expectation is that the applicants provide evidence to establish the primary use of the garage is not fuel sales.

In practice it appears that the licensing authorities generally will not apply a restriction on the sale of alcohol at petrol stations that also offer a substantial range of groceries for sale. Each individual application is considered on its own merits, and licences may be refused where concerns have been raised by interested parties such as the police. However, as one licensing authority in Wales has informed Alcohol Concern Cymru, frequently such refusals are overturned on appeal to the courts. Clearly, there remain concerns and ambiguity regarding the effectiveness of this particular part of the legislation, particularly around the issue of primary use.



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*“Drink driving is still one of the major causes of death on our roads. We should avoid placing before motorists even the temptation to consume alcohol behind the wheel.”*

Clive Wolfendale, Chief Executive of CAIS and former Deputy Chief Constable of North Wales, 2010<sup>5</sup>

### International comparisons

France has recently prohibited sales of alcohol from petrol stations,<sup>6</sup> although it is presently too early to assess how effective this measure has been in cutting alcohol-related driving accidents and deaths. Likewise, the licensing laws in Scotland prohibit the sale of alcohol from garage forecourts,<sup>7</sup> but with a significant exemption, namely if it can be demonstrated that the local community is (or likely to become) reliant on the premises as a principal source of either fuel or groceries. This is intended to avoid unfairly disadvantaging local residents who would otherwise have to travel longer distances to purchase their goods. However, and similar to the position in England and Wales, ambiguity in the wording of the legislation has led to conflicting decisions from the courts on appeal.<sup>8</sup>

In the USA, whilst alcohol sales from petrol stations are permitted in some areas, many states have implemented laws that prohibit the possession and consumption of alcoholic beverages in the passenger areas of motor vehicles. Commonly referred to as ‘open container laws’, these prohibit possession of any open alcoholic beverage container in areas of a motor vehicle that are readily accessible to the driver or passengers whilst in their seats, for example the glove compartment and footwell.<sup>9</sup> At least one study has shown that states without open container laws experience significantly greater numbers of alcohol-involved fatal crashes than states with such laws.<sup>10</sup> The Texas Department

of Public Safety has observed that in the majority of alcohol-related crashes an open container is present.<sup>11</sup> Such laws have also served as an expression of a more general desire to disassociate alcohol completely from driving.<sup>12</sup>

*“Alcohol and cars don’t mix, period.”*

Col. Thomas Davis Jr., Director, Texas Department of Public Safety, 2001<sup>13</sup>

### Alcohol sales from petrol stations in Wales

In May 2010, a snapshot telephone survey of sales staff at petrol stations in eight counties in Wales was commissioned by Alcohol Concern Cymru. Of the 49 respondents to the survey, 16 (33%) confirmed that they sold alcohol from their premises, two of which sold alcohol 24-hours a day. These figures correspond to previous survey research undertaken in England and Wales, which found 31% of petrol stations sold alcoholic drinks as well as fuel.<sup>14</sup>

Encouragingly, respondents at 15 of the 16 petrol stations in Wales selling alcohol said they had received specific training regarding selling alcohol to persons under 18-years-old, whilst 13 respondents had received training regarding selling alcohol to persons who are intoxicated. No details were captured about what this training comprises, and it is worth noting that if these figures are generalized to the wider population, this may mean as many as 20% of sales staff at petrol stations have not received training concerning dealing with attempts to purchase alcohol from customers who are intoxicated.

### Discussion

There has currently been little research undertaken examining whether, and to what extent, alcohol sales at petrol stations contribute to an increased incidence of drink-driving<sup>15</sup> and more work is

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needed. There is, however, a growing body of evidence which demonstrates that the availability of alcohol contributes to increased levels of alcohol-related harm.<sup>16</sup> It therefore follows that alcohol available to be purchased and then immediately consumed either prior to or when driving a motor vehicle, or indeed by passengers within the vehicle, is likely to increase the risk of harm.

*“The literature has produced a clear scientific consensus... The most effective (and cost-effective) policies involve controlling the price and availability of alcoholic beverages.”*

Professor Martin Plant, 2009<sup>17</sup>

Petrol stations, by their very nature, are strongly associated with driving and attract significant trade from motorists. It is therefore reasonable to argue that sales of alcohol from such premises may increase the number of drink-related road injuries and deaths (although police data does not presently capture where alcohol has been purchased) and may also be potentially damaging to public campaigns that seek to highlight the risks of drinking and driving. The Welsh Assembly Government (WAG), in its substance misuse strategy *Working together to reduce harm*,<sup>18</sup> has identified banning the sale of alcohol at petrol stations in Wales as an effective measure to tackle the inappropriate availability of alcohol, and has also called for a reduction in the current drink-drive limit.<sup>19</sup>

Of course, motorists have many opportunities to purchase alcohol from premises other than petrol stations, for example from off licenses and supermarkets. There are also practical difficulties, such as those highlighted above regarding the England and Wales and Scottish legislation, of implementing consistent and effective restriction and bans on such sales. Consideration therefore should also be made to alternative or complimentary measures, such as open container legislation, in order to further reduce rates of drink driving.

## Recommendations

Alcohol Concern Cymru makes the following recommendations:

1. It should be a mandatory requirement that drink-drive warnings be displayed at the point of sale at all petrol stations where alcohol is also available for purchase. Such warnings would serve to support ongoing awareness-raising campaigns concerning the dangers of drinking and driving.
2. It should be a condition that any petrol station applying for an alcohol licence must be able to demonstrate that it will either buy-in, or provide themselves, thorough training for staff on responsible alcohol sales practices for its staff.
3. A review of the effectiveness of bans on alcohol sales from petrol stations, and alternative measures undertaken in other countries, should be undertaken to inform discussions about the appropriateness of an equivalent measures being implemented in England and Wales.
4. In recognition of the growth of alcohol as a public health issue, and in order to enable licensing authorities to properly address this, the protection and improvement of public health must be established as a fifth criterion within the Licensing Act 2003 for assessing license applications, including those from petrol stations.
5. The drink-driving blood alcohol limit in England and Wales should be reduced from 80mg/100ml to 50mg/100ml, in line with the North Review,<sup>20</sup> on the grounds that drivers are more likely to be involved in an accident the higher their blood alcohol level. This should be accompanied by greater publicity on penalties and highly visible enforcement.

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