



The bars where drivers got drunk before OUI arrests

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Toby Keith's I Love This Bar & Grill in Foxborough (above) led the state's "place of last drink" list from 2012 through September 2016.

By Dan Adams and Matt Rocheleau

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In his 2003 song “I Love This Bar,” country star Toby Keith sings about the bikers, “blue-collar boys,” and other characters who hang out at a fictional watering hole.

But the real-life Massachusetts bar named after the song, Toby Keith’s I Love This Bar & Grill in Foxborough, counts another type among its regulars: drunk drivers.

Since 2012, the music-themed bar at the Patriot Place shopping complex outside Gillette Stadium has been named 46 times by convicted drunk drivers as the last place they drank before getting arrested, more than any other establishment in Massachusetts, according to court data.

The Grog, a Newburyport restaurant, and Partner’s Pub in Fitchburg were each linked to 36 drunken driving convictions during the period, tied for the second in the state.



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The findings emerged from a Globe review of 8,364 so-called place of last drink reports collected by Massachusetts courts after convictions for operating under the influence, for the period from January 2012 to September 2016.



Graphic: Where, when OUI convicts had last drinks before arrest

These graphics show where and when OUI convicts had their last drinks in Massachusetts before they were arrested.

Those numbers, however, offer only a small window into the drunken driving problem in Massachusetts: About 15,000 to 16,500 people a year are arraigned on drunken driving charges in Massachusetts, according to the state trial courts, while only about 10 to 15 percent of arrests result in a conviction in a given year.

The analysis found that a fraction of the bars and restaurants licensed to serve alcohol in Massachusetts — just 48 establishments — combined to rack up more than 1,000 last-drink reports, which represent 12 percent of convictions reviewed by the Globe.

Among those frequently named were sports venues and bars near them that serve huge numbers of fans. Since 2012, Gillette Stadium was named by drunk drivers 35 times, while Fenway Park and TD Garden were named 25 and 24 times respectively.

But the owners of Toby Keith's acknowledged that even





after accounting for the large crowds at Patriot Place, the bar had accumulated far too many last-drink reports.

“It’s a pretty daunting number we’re looking at here. I was not aware it was that high,” said Barry Birks, vice president of CRGE Foxborough LLC, which owns Toby Keith’s. “Frankly, we’re embarrassed.”



SUZANNE KREITER/GLOBE STAFF

Partner’s Pub in Fitchburg was tied for second on the state’s “place of last drink” list.

In Fitchburg, Partner’s Pub owner Walter Kirby blamed many of his establishment’s 36 last-drink

reports on a single state trooper he believes unfairly singled out his bar, an allegation dismissed by a State Police spokesman. The co-owner of the Grog in Newburyport declined to comment.

Last-drink reports are not direct evidence of a liquor law violation. They're simply records of what defendants convicted of drunken driving said when judges, [as required by law](#), asked where they had their last drinks.

Because some offenders may lie to protect a favorite bar, or became intoxicated elsewhere but named an establishment that turned them away, the state Alcoholic Beverages Control Commission does not sanction bars and restaurants each time they are named.

"Some individuals in court may have not told the truth," ABCC chief investigator Ted Mahony said. "But if you look at the bars that have high numbers compared to the nine thousand other bars in the Commonwealth, that's an indication there's a problem. You don't get on the top of the list by accident."

The ABCC and local police can use the last-drink reports to target bars. In 2012, for example, the ABCC suspended Toby Keith's liquor license for three days after two 18-year-olds were caught drinking there.

But more important than punishing bars and restaurants, Mahony said, is getting them to stop serving intoxicated patrons. He cited several bars where last-drink numbers dropped sharply after his undercover agents conducted enforcement stings and charged them with liquor law violations.

"If they change their practices and keep drunk drivers off the road, that's the win, not the penalty they pay," Mahony said. "We're not out at bars at 2 in the morning because it's fun. I do it because it works."

Licensed alcohol retailers are [prohibited by Massachusetts law](#) from serving intoxicated people. Those caught in the act risk a suspension or revocation of their alcohol license.

Restaurants and bars can also be held liable in civil court if a drunk driver whom they over-served injures someone or damages property. Most establishments train servers to identify and cut off drunk customers.

The place-of-last-drink data have important limitations, law enforcement officials and restaurant

owners said: Defendants can be unreliable self-reporters, and increased enforcement on roads near frequently cited establishments can add to their already high numbers.

Other places may routinely over-serve patrons who then drive drunk, but because of luck or location, those drivers are rarely arrested.

The last-drink numbers underestimate drunken driving. That's because most OUI cases are settled before a trial, with the accused agreeing to a license suspension and alcohol counseling, according to [a 2011 Globe Spotlight Team report](#). Of those that do go to trial, the majority result in acquittals.

Court officials said the data may not include all the cases where the place of last drink was a private residence.

The last-drink reports "are fairly low numbers, but they're probably the tip of an iceberg," said Jay Winsten, director of Harvard University's Center for Health Communication and a pioneer of OUI awareness campaigns. "These numbers may well serve as a red flag, reflecting a pattern of drinking behavior at a particular establishment."

In Fitchburg, Partner's Pub owner Walter Kirby, who blamed an overzealous state trooper for picking on his patrons, also questioned the reliability of breath tests and said many of the 36 OUI offenders who fingered his bar really had their last drinks elsewhere.

"If you're a regular at a bar and you get pulled over, you're not going to tell them where you're a regular at, you're going to pick some other name," said Kirby. Asked whether Partner's could improve its practices, Kirby said, "We do the best we can, but nobody's perfect"

State Police spokesman David Procopio said Kirby's allegation was "ridiculous."



CHRISTOPHER KLEIN FOR THE BOSTON GLOBE/FILE

The Grog in Newburyport was tied for second on the state’s “place of last drink” list.

“If there is a high concentration coming from any one place, perhaps an establishment should examine why their patrons are so frequently driving drunk after they leave,” he said. “We are sure most proprietors, as well as the public at large, are grateful for every drunk driver we take off the road before they can kill someone.”

After becoming police chief in 2015, Ernest Martineau had Fitchburg officers participate in local alcohol licensing hearings, which he said sends a message to businesses that police are watching. It’s not certain the practice yields results, but during the first nine months of 2016, Partner’s was named in only one last-drink report.

In Newburyport, City Council president Thomas O’Brien said he was disturbed to learn of the high

numbers of reports naming the Grog, and that he would ask the police and Licensing Board to investigate.

Meanwhile, bars in neighboring Salisbury were named 145 times in the reports, among the most of those in any municipality. Police Chief Thomas Fowler attributed the high numbers to Salisbury's popularity as a beach town. He said he planned to speak with managers of the most-named establishments, and suggested the town encourage businesses to use designated drivers and ride-sharing services.

Establishments in Boston garnered a combined 556 last-drink reports, by far the most of those in any municipality, but only a few large venues in the city appear near the top of the ranking. They include sports venues, whose owners said the number of convictions linked to their facilities is low relative to the millions of people they host.

A spokeswoman for the Red Sox, whose principal owner John Henry also owns the Globe, noted that alcohol sales at Fenway Park end during the seventh inning, and said the team participates in a program to encourage the use of designated drivers.

A spokeswoman for Boston's TD Garden said the stadium had a "strict alcohol policy" and makes training staff on alcohol consumption a priority.

Gillette Stadium was named in 35 cases, and collectively, the arena and neighboring bars at Patriot Place were tied to 134 OUI convictions.

Kraft Group executives speculated that some drivers may have had their last drinks at tailgate parties in the parking lot, not inside Gillette Stadium, where alcohol sales are halted shortly after halftime during Patriots games.

Kraft executives said they provide free nonalcoholic drinks to designated drivers, offer a pickup area for ride-hailing services such as Uber, and pay for employees at Patriot Place restaurants to receive alcohol-service training.

Toby Keith's at Patriots Place is a franchise that was once part of a chain owned by an Arizona-based company that dissolved after a string of [alcohol violations](#), [tax liens](#), and [lawsuits over its business practices](#). The one remaining restaurant in Foxborough is run by several executives of the former owner, including Birks.

He noted the rate of last-drink reports at Toby Keith's has slowed since a management overhaul in February. Still, he acknowledged the number was "unacceptable."

"It's something we're going to attack very aggressively," Birks said. "The numbers have to come down, and we won't be satisfied until they're zero."

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