

HB

428

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. Jim Holm
Rep. Dan Ogg
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: March 20, 2004
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS1520\D, HB 428, incorporating the attached four amendments (Amendments # 1, 2, 4 and 5). The bill was passed out of committee on Friday.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL**, an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

HB 428

Amendment #1 - PASSED
by Rep. Gruenberg

Page 2, Line 7
Delete (d) entirely.

Conceptual

HB 428

Amendment # 2 - PASSED

by Rep. Gruenberg

Page 2, Lines 8-10

Delete (e)

And on page 1, Lines 8 and 11,

After "\$1,000" Insert

" plus costs and reasonable attorney fees
as permitted by AK.R. Civ. Pro. 79 and 82"

(Please phrase this however it is standardly
written in our statutes)

HB428
Amendment #4 - PASSED
by Rep. Gruenberg

Page 2*, Line 1:
Delete "by first class mail"

Page 1, Line 14:
After "send"
Insert ", by first class mail,"

HB 428

Amendment #5 - PASSED

by Rep. Gruenberg

Page 2, Line 5

Alter "solicited"

Delete "that"

Insert "a"

HOUSE BILL NO. 428

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MEYER, Wilson

Introduced: 2/4/04

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for acts related to obtaining alcohol for persons under
2 21 years of age or for persons under 21 years of age being on licensed premises."

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

4 * Section 1. AS 04.16 is amended by adding a new section to read:

5 Sec. 04.16.065. Civil penalty for violations of AS 04.16.060. (a) A person
6 who has attained 18 years of age, or an emancipated minor, who violates
7 AS 04.16.060 is, in addition to any criminal penalty provided by law, liable in a civil
8 action to the licensee for a penalty of \$1,000.

9 (b) A person having legal custody of an unemancipated minor who solicits
10 another person to violate AS 04.16.060 is liable in a civil action for a penalty of
11 \$1,000 to the licensee from whom the other person purchased, ordered, or received an
12 alcoholic beverage in violation of AS 04.16.060.

13 (c) (It is a condition precedent) to maintaining an action under this section that
14 the owner or seller of the merchandise send ^{by first class mail,} to the defendant a notice demanding the

1 relief authorized ~~(by first class mail)~~ to the defendant at the defendant's last known
2 address 15 days or more before the action is commenced. The Department of Law
3 may adopt regulations prescribing the form of this notice. It is not a condition
4 precedent to maintaining an action under this section that the person who violated
5 AS 04.16.060 or solicited ^{as} that violation was charged or convicted under any statute or
6 ordinance.

7 (d) Judgments, but not claims, arising under this section may be assigned.

8 (e) The liability of a person for damages and penalties under this section is in
9 addition to liability for an award of reasonable attorney fees that may be made to the
10 prevailing party in a civil action under Rule 82, Alaska Rules of Civil Procedure.

11 (f) In this section, "emancipated minor" means a minor whose disabilities have
12 been removed for general purposes under AS 09.55.590.

wording

HB 428

Amendment #3 - WITHDRAWN
by Rep. Gruenberg

Page 1, Line 6

Delete "who has attained 18 years of age,
or an emancipated minor,"

~~HB 478~~

HB 428

Amendment

- not offered

Case

~~The pro~~

~~At least 75% of the proceeds~~

Any time a licensee recovers a fine under this section, it must confirm on a form required by the Alcohol & Beverage Control Board that, after costs of recovering the fine, at least 75% of the proceeds of the fine will be used for alcohol abuse education or treatment efforts. On that form the licensee must summarize what efforts the fine will fund.

NO

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 428
 (H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Civil Penalty/Underage Alcohol BRU Alaska Court System
Purchases Component Trial Courts
 Sponsor Representative Meyer
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 The court system does not anticipate any fiscal impact from the passage of HB 428.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division: Alaska Court System Date/Time 2/24/04 9:46 AM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 2/24/2004
 Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: HB 428
(H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title An act related to civil liability for acts related to RDU Statewide Support
obtaining alcohol for persons under 21 years... Component ABC Board
Sponsor Representative Meyer
Requester H. Labor and Commerce Component No. 2690

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated by the Department of Public Safety.

Prepared by: Douglas B. Griffin, Director Phone 269-0351
Division ABC Board Date/Time 2/24/04 9:35 AM
Approved by: Commissioner William Tandeske Date 2/24/2004
Agency Department of Public Safety



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: March 1, 2004

TO: Representative Lesil McGuire
Chair, House Judiciary Committee

FROM: Representative Kevin Meyer *KM*

RE: HB 428 Civil Penalty: Underage Alcohol Purchases

At your earliest convenience, please schedule HB 428 Civil Penalty: Underage Alcohol Purchases for a hearing in the House Judiciary Committee.

Under HB 428, an adult who orders or receives an alcoholic beverage, for the purpose of selling, giving, or serving it to a person under the age of 21 years, can be civilly liable to the licensee for a penalty of \$1000. Likewise, the parent or legal guardian of a minor that solicits an adult to violate AS 04.16.060, can be civilly liable for a penalty of \$1000 to the licensee from which the alcoholic beverage was purchased, ordered or received.

Thank you for your time and consideration of this matter.



REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

SPONSOR STATEMENT

HOUSE BILL 428

“An Act relating to civil liability for acts related to obtaining alcohol for persons under 21 years of age or for persons under 21 years of age being on licensed premises.”

Under House Bill 428 Civil Penalty: Underage Alcohol Purchases, an adult who orders or receives an alcoholic beverage, for the purpose of selling, giving, or serving it to a person under the age of 21 years, can be civilly liable to the licensee for a penalty of a \$1,000. Likewise, the parent or legal guardian of a minor that solicits an adult to violate AS 04.16.060, can be civilly liable for a penalty of \$1,000 to the licensee from which the alcoholic beverage was purchased, ordered, or received.

There is nothing new about misguided adults buying alcohol for minors. Often, minors ask a stranger outside of a liquor store to buy alcohol.

Alcohol remains a leading drug problem among our nation's young people, with earlier and earlier initiation of consumption. Underage drinking is associated with the leading causes of death among young people, including car crashes, murder, and suicide. HB 428 will provide an economic deterrent for adults and for minors to abstain from purchasing or soliciting the purchase of alcohol.

Currently, the Municipality of Anchorage has a similar ordinance to HB 428 in place. The money that is collected by the licensees goes toward alcohol education and intervention programs, as well as to the employees of the licensee as incentives for paying close attention to all customers.

The method of deterrent that HB 428 will provide increases the awareness of the overall cost that alcohol and underage drinking has on our communities. HB 428 provides an economic incentive for employees of liquor stores and bars to pay close attention to customers, for minors to refrain from soliciting alcohol from adults, and for irresponsible adults to think twice before providing alcohol to a minor upon request.

Last Updated: February 11, 2004



FOOD & SPIRITS

**P.O. Box 111369
11321 Old Seward Hwy
Anchorage, AK 99511
907 336-7177**

2/13/04

**Representative Kevin Meyer
State Capitol, Room 513
Juneau, AK 99801**

RE: HB 428

Dear Representative Meyer:

This letter acknowledges my full support of House Bill 428. It is legislation that will have a long term positive affect not only in our communities but for the hospitality industry as well.

By holding adults of legal age to purchase alcohol responsible for providing for minors is legislation the industry will gladly enforce. I am always surprised when adults claim these actions are harmless. In banquet situations I have seen parents give children alcohol such as champagne and am obligated to tell them their actions on-premise are illegal. This legislation will empower licensees to enforce the law and make all adults think twice before passing a glass of alcohol to a minor or in any public situation for that matter.

I see HB 428 as deterrence to providing alcohol to minors, educational to the public and an incentive for licensees to get the word out.

Sincerely,

**Chuck Edwards
Manager**



MADD
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Anchorage Chapter
4105 Turnagain Boulevard, Suite A • Anchorage, AK 99517
(907) 562-6890/Fax (907) 562-6896
Email: info@maddalaska.com
Visit our Web Site: www.maddalaska.com

Our Mission is to stop drunk driving, support the victims of this violent crime and prevent underage drinking

February 24, 2004

Representative Kevin Meyer
Alaska State Legislature
Juneau, AK 99811

RE: HB 428

Dear Representative Meyer,

On behalf of the Anchorage Chapter of Mothers Against Drunk Driving, I would like to express our support for HB 428 statewide civil penalties for Underage Alcohol Purchases.

This has been a successful approach for the Anchorage Municipality and will discourage underage alcohol consumption throughout the state.

Sincerely,

Marti Greeson

Marti Greeson
Executive Director



MADD

Activism | Victim Services | Education™

Mothers Against Drunk Driving
JUNEAU CHAPTER
211 4th St., Suite 314
Juneau, AK 99801
Phone (907)463-2562
Fax (907)463-2540
madd@alaska.net
www.madd.org/ak/juneau

February 10, 2004

Representative Kevin Meyer
State Capitol, room 513
Juneau, Alaska 99801

Re: House Bill 428
"An Act relating to civil liability for acts related to obtaining alcohol for persons under 21 years of age or for persons under 21 years of age being on licensed premises."

Dear Representative Meyer:

The MADD Alaska Chapters, *Anchorage, Fairbanks, Juneau and Mat-Su*, support House Bill 428.

In order to further limit youthful involvement in alcohol-related crashes, MADD advocates criminalization of actions by adults who provide for minors.

MADD believes there should be more effective and stringent enforcement of the minimum drinking age law, by means of administrative, civil, and criminal measures, to further limit illegal underage access to alcohol and thus reduce youthful involvement in alcohol traffic crashes.

House Bill 428 supports Community Policing which is a philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime through problem-solving tactics and community-police partnerships.

HB 428 provides an incentive for liquor stores to prevent irresponsible adults from furnishing alcohol to minors and allows them to be part of community policing.

Sincerely,

Cindy Cashen

Executive Director

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Anchorage Daily News

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Brown Jug aims to turn ID busts into life lessons

CLASS: Liquor retailer creates alcohol awareness program.

By LISA DEMER

Anchorage Daily News

(Published: December 8, 2003)

One evening last fall, a man tried to buy wine coolers, vodka and Mike's Hard Lemonade for a couple of 15-year-old girls. The head of security at Brown Jug made a citizen's arrest, handcuffing the buyer. Police came. The man was busted, and so were the girls.

That may seem a fitting end to the store's role. But Brown Jug, one of the state's biggest liquor retailers, has a reputation for being extra aggressive in preventing sales to kids as well as adults who buy for them.

The company has pursued \$1,000 civil claims against people who try to buy booze illegally. Now the retailer wants to transform its campaign against underage drinking into an effort that not only stings the wallet but also convinces youths not to drink.

Under the new approach, anyone who goes through a new alcohol awareness program crafted for Brown Jug will get a break on the civil penalty. The store will seek \$300 instead of \$1,000.

"We're trying to educate on the responsible approach to the product," said Ed O'Neill, one of Brown Jug Inc.'s owners.

The program isn't free. Participants will have to pay another \$290 for the main course, 15 to 16 hours of classroom sessions led by Akeela Inc., a private substance abuse prevention and treatment agency.

Two other agencies are joining in. Standing Together Against Rape will talk to participants about sexual assault and its connections to alcohol.

Participants also must listen to people whose lives have been upended by drinking. The panel, put together by Mothers Against Drunk Driving, includes people hurt by drunken drivers and those on the other side, inmates serving time for killing someone while driving drunk. There's a separate \$35 fee for that panel.

Other retailers are starting to be more diligent about checking IDs.



This fake ID is made from a scanned document that was altered and then laminated over the original ID. (Photo by Erik Hill / Anchorage Daily News)



Brown Jug vice chairman Ed

"But no one is in Brown Jug's league," said Doug Griffin, director of the state Alcohol Beverage Control Board. "It shows good leadership on behalf of this company and this industry to do the right thing."

O'Neill hopes more retailers and bars follow suit.

Brown Jug pushed through a local Anchorage ordinance five years ago that allows liquor stores and bars to seek civil penalties against youths who walk in without a parent or guardian. Big yellow signs on Brown Jug's front doors warn kids to stay away. In 2001, the provision was put into state law.

The civil measure is needed as both deterrent and punishment because prosecutors rarely pursue fake ID cases, said O.C. Madden III, Brown Jug's manager of personnel and loss prevention.

Since 1998, Brown Jug has demanded \$1,000 payments from more than 900 underage youths who tried to buy something -- from beer to cigarettes to Coke. Those not trying to buy booze are likely just testing the store, Madden said. Not all have paid, but many have, Madden said. The civil cases now fill more than 20 binders.

Last year, the Anchorage Assembly approved a measure to allow liquor establishments to seek similar civil penalties against adults who buy for kids, and the kids who are part of the scheme.

Those cases are more often prosecuted, but the consequence may be a small fine and community work service. So, under this provision, Brown Jug has sought \$1,000 civil payments from another 120 kids and adults.

Madden has noticed the adults trying to buy for kids often fit in one of three categories: older friends or siblings, public inebriates or registered sex offenders. Over the Thanksgiving weekend, a 34-year-old man with a record of sexually abusing a minor was caught at a Brown Jug store trying to buy beer and liquor for three youths, including a 17-year-old boy, according to Brown Jug.

Dozens of confiscated IDs that Madden keeps in his office show how kids try to trick the clerks. Some are homemade, sloppy and obvious. One kid scanned his real license into a computer, fiddled with the dates, and glued a printout of his reworked card atop the laminate of the real one.

But other cards are bought through the Internet as slick renditions. Fake IDs from New Jersey have been especially popular lately. Kids also have schemes to get IDs from the state Division of Motor Vehicles, Madden said. They may use someone else's birth certificate, especially an older sibling's, he said.

The bust involving the two 15-year-old girls prompted Brown Jug to add the education component. The girls probably didn't realize how close they were to real trouble, Madden said. The man had intended to take them to a drinking party where they would have been the only girls.

O'Neill put out the word about the new education program in a recent e-mail to dozens of community council activists, Assembly members and police officers. Some people replied to the group with praise, but at least one took issue with how the store rewards its clerks who catch minors.

A Brown Jug clerk who seizes an ID suspected of being fake gets \$20 from the store and another \$250 if the store wins a civil penalty or judgment, Madden said. The IDs are sent to the ABC board, where owners can collect them.

O'Neill displays confiscated IDs and 22 binders containing paperwork on 40 fake ID cases at company offices in Midtown Anchorage. (Photo by Erik Hill / Anchorage Daily News)

Click on photo to enlarge

The incentive doesn't sit well with Tim Stevens, who is active on the Huffman-O'Malley Community Council.

"I commend your desire to curb underage drinking but I do not care for your methods," Stevens e-mailed back to the group. "Seems to me its just another way of putting extra money in your employees pockets at the expense of the offenders parents."

But other people like the approach.

"This small monetary caveat (civil penalty/diversion program) is nano-scale in comparison to a life being saved," Carol Holden, an officer on the Taku-Campbell Community Council, wrote in an e-mail reply. "We need to make winners out of those who support the laws. Half of the solution is reward, the other is penalty."

"As a taxpayer, I am sick and tired of no one taking any responsibility for their action and we are suppose to keep paying for more police to enforce the laws," wrote Bonnie Jack, an aide to Assemblywoman Fay Von Gemmingen. "I say, 'Good Job, Brown Jug!' "

People are just now signing up for the first of the new alcohol education courses. Adults trying to buy for kids will spend a Friday evening and all day Saturday in alcohol class. Those under 21 will spend four weeknights.

The classes are revamped from the Prime for Life course that middle and high school students already can take after being suspended for drugs or alcohol to get back to school more quickly.

"We dispel myths. We take away the shame and guilt and trappings that go with this whole issue," said Diane Ogilvie, director of prevention, education and training at Akeela Inc.

"It is designed to require you to be very honest about yourself."

Daily News reporter Lisa Demer can be reached at ldemer@adn.com and 257-4390.

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By Jan Goehring

Lots of kids party, and alcohol is easy to get," says Jane McKnight, a California high school junior.

"In our class, we have a 'go to' guy for alcohol. He can't even drive yet, but he looks older and knows a store where they don't card him. Some kids have fake IDs, some get alcohol from their parents, and others just ask an adult going into a store to buy it for them," she adds. Jane thinks her school is about average when it comes to drinking behavior.

Research supports her comments. Nearly 50 percent of teens have had at least one drink by the time they reach eighth grade, and 20 percent say they have been drunk, according to the National Institute on Alcohol Abuse and Alcoholism.

Approximately 30 percent of 12th graders "binge" drink—had more than five drinks at one time in the last two weeks. More young people drink than use other drugs or smoke tobacco. "The fact is, alcohol is the illegal drug of choice for kids," says Wendy Hamilton, national president of Mothers Against Drunk Driving.

So is this just a rite of passage in a culture where alcohol is the norm among adults or is it a problem demanding attention? The consequences of underage drinking can be devastating. Teens tend to drink to excess when they do drink. Traffic crashes are one of the most obvious dangers, with alcohol involved in more than one-third of youth traffic deaths. Underage drinking also is linked to suicide, educational difficulties, violence and sexual activity.

Myriad laws, regulations and programs are in place to prevent underage consumption. Since Congress established the drinking age as 21 in 1984, statistics improved, but kids still drink. It's a problem that seems to elude solutions.

THE ADULT CONNECTION

A recent report, "Reducing Underage Drinking: A Collective Responsibility," from the National Academy of Sciences (NAS), offers recommendations. Mandated by Congress,

Jan Goehring covers alcohol sales and licensing issues for NCSL. Jeanne Kaufmann, who works on adolescent and school health, also contributed to this article.

LOTS OF KIDS DRINK...

Keeping teens away from alcohol is tough, but not impossible.

the study acknowledges that kids get alcohol from adults—either directly or indirectly—and efforts to curb the problem need to focus on adults and society at large.

"We have to find effective ways to protect our nation's youth while we respect the interests of responsible adult consumers of alcohol," says Richard Bonnie, director of the Institute of Law, Psychiatry and Public Policy at the University of Virginia and chair of the committee that wrote the report.

"We are heartened to see that the report recognizes the important role parents play in keeping alcohol out of children's hands," says Maria Tildon of the Century Council. The council, funded by distilled spirits companies, promotes responsible decision-making about alcohol, focusing on drunk driving and underage drinking problems through a variety of programs.

Recommendations in the NAS report include national adult and youth-oriented media campaigns, partnerships between industry and private and public organizations to prevent the problem, and a reduction in how much drinking is portrayed in movies and music videos.

It also calls for reducing the amount of alcohol marketing aimed at kids. The Center on Alcohol Marketing and Youth argues that high schoolers are overexposed to alcohol advertising and influenced by its youthful themes. Jeff Becker, president of the Beer Institute, a national trade association, opposed this recommendation during congressional testimony on the report last fall. He cited a Roper Youth Report poll that shows that parents are the No. 1 influence on their children's decision whether to drink.

John Kaestner of Anheuser-Busch Companies agrees. "A teen's exposure to—or awareness of—beer advertising has nothing to do with what can help that teen make good decisions about respecting the law and himself when it comes to underage drinking," he says.

The Roper report lists a number of state policy recommendations, as well. For example, it urges states to enhance existing laws, includ-

ing strengthening compliance checks in stores to make sure they follow drinking-age laws. It also encourages states to improve efforts to prevent and detect the use of fake IDs require all sellers and servers of alcohol to complete training for checking IDs and spotting fake ones, implement enforcement programs to deter adults from purchasing for minors and establish a keg registration system.

All states prohibit the sale of alcohol to youth and have zero tolerance laws for those under age 21 who drink and drive.

Illinois recently adopted a law that allows someone who is injured by a drunk or impaired minor to sue the adult who supplied the alcohol.

"We wanted to send a message that it is not

Continued on Page 22



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UNDERAGE DRINKING STATISTICS

- ◆ 28.5 percent of those aged 12 to 20 reported drinking alcohol in 2001.
- ◆ Among young adults aged 18 to 25 years, 22.8 percent drove under the influence of alcohol in the last 12 months.
- ◆ More than 40 percent of those who begin drinking before age 13 will develop alcohol abuse or dependency problems at some point in their lives.
- ◆ About 12 percent of eighth graders, 22 percent of 10th graders and 29 percent of 12th graders report binge drinking (five drinks in a row) in the last two weeks.
- ◆ Rates of binge drinking and heavy alcohol use are higher among males than females.
- ◆ Young adults aged 18 to 22 enrolled full time in college were more likely than their peers not enrolled full time to report binge and heavy drinking.

Sources: Leadership to Keep Children Alcohol Free; National Household Survey on Drug Abuse, 2000, 2001; U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.

OK for adults to give alcohol to kids," says Illinois Representative Kevin Joyce, the bill's sponsor.

Kansas Senator Kay O'Connor sponsored a measure in 2003 to create the misdemeanor crime of hosting underage drinkers.

The bill was sparked by the death of a teen who crashed his car after leaving a beer party at a house where the parents were home.

"Parents make their kids popular by allowing these drinking parties," says O'Connor. The measure passed the Senate and carried over to the House this session.



REPRESENTATIVE
 KEVIN JOYCE
 ILLINOIS



SENATOR
 KAY O'CONNOR
 KANSAS

TURNING TO TAXES

Increasing excise taxes on alcohol, especially beer, was another NAS recommendation. The rationale is that kids would no longer be able to afford to buy beer, and the revenue could be used to fund underage anti-drinking programs. Industry opposes this idea and cites research showing it won't work.

"It's ridiculous to think that hiking the price of a six-pack by 25 or 50 cents is going to stop a teenager intent on breaking the law," says Kaestner.

"What do you raise them to? When does it become cost-prohibitive for teens?" wonders Representative Joyce.

California teen Jane doesn't know what exactly should be done, but does know kids drink a lot and sometimes "it's scary."

Article for *TOAST Magazine*
Community News Release
February 5, 2004

Third Party Purchasers

The disheveled man in his fifties looked a little out of place at the counter with the 3 six-packs of maltalternative beverages. While the clerk suspended the sale, a look outside the building confirmed the presence of a van containing three nervous teenagers. After a quick interview with security personnel, the three admitted giving a public inebriate \$50 to purchase the beverages for them. All four were arrested and turned over to the police, who took the adult into custody, and released the minors to their parents after issuing them citations. The minors explained that this particular inebriate routinely made himself available to purchase alcohol for the local high school crowd.

There is nothing new about misguided adults buying alcohol for minors, but what might surprise you is how often minors are able to obtain alcohol from a third party, and who the minors are asking to buy for them. Over the last several week, Mothers Against Drunk Driving (MADD), in cooperation with the Anchorage Police Department, has conducted a survey to determine how often adults will buy alcohol for obviously underage total strangers. While the survey has just begun, 40% of the Anchorage adults approached by the teens agreed to buy for them. A recent survey performed by the Los Angeles Police Department produced similar results, 46% of the adults approached agreed to buy for the minor. As greater pressure is brought to bear on sources of fraudulent identification, the national trend seems to be that more and more minors are turning to adults to obtain alcohol.

Brown Jug has taken an aggressive approach in dealing with third party purchases for minor by conducting surveillance with trained security personnel to arrest minors and adults who violate AS 04.16.060. It is a criminal offense in Alaska for a minor to solicit an adult to buy alcohol for the minor, and for the adult to order or receive an alcoholic beverage from a licensee for the purpose of giving it to a minor.

Since initiation of the third party interdiction program, Brown Jug security personnel have made over 120 arrests. This program has also resulted in arrests for other criminal conduct, such as felony drug charges, weapons charges, as well as parole violations. Store level employees are trained to recognize the potential signs of a third party purchase, but are not authorized to detain the customer. If the employee believes the alcohol is destined for a minor they are to deny the sale and contact security if necessary.

In analyzing the arrests made, we have identified three primary groups of adults who purchase for minors. The first group is made up of older siblings or friends of the minor who believe that they are doing their underage friend a favor. The second group is made up of public inebriates. Minors have learned that the "Will Work for Food" crowd is easily persuaded to purchase alcohol. Disturbingly, the third group is made up of sex offenders. When we interview minors we find that they are shocked to learn the criminal history of the person they solicited. Approaching strangers and public inebriates for alcohol is far more dangerous than they think. More than one arrest has resulted in profuse appreciation from parents who realized what very likely was about to happen to their daughter.

Article for *TOAST Magazine*
Community News Release
February 5, 2004

Anchorage Municipal Ordinance 10.50.23 provides that minors and adults who violate AS 04.16.060 are liable to the licensee for a civil penalty of \$1000. In partnership with Akeela House, MADD, and Standing Together Against Rape (STAR), Brown Jug is waiving \$700 of the civil penalty if the participants successfully complete the educational classes offered. Akeela provides all case management, so the time required by the licensee is minimized. Essentially, the licensee is responsible for making a demand for the \$1000 civil penalty by first class mail, signing up the participants when they respond, and forwarding the participant name to Akeela. The case manager at Akeela is responsible for scheduling participants and coordinating classes with other agencies. On third party cases, the rate of participation have been impressive; virtually all of the adults and minors contacted, signed up immediately, the rest committed to sign up on a specific date.

What are the signs that a third party purchase may be occurring?

1. Minors in vehicles parked around the side of the building, when parking is available directly in front of the door;
2. The adult in the store is buying several different products; and
3. The adult denies anyone is in his or her vehicle.

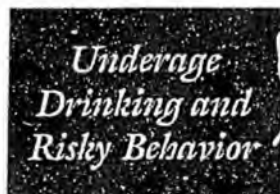
What steps can be taken to prevent third party purchases?

1. The policy at Brown Jug is that everyone in a customer's party must be 21 years old, or be the child, spouse, or legal ward of the customer. This includes persons in the customer's vehicle.
2. Consider installing outdoor cameras to monitor blind spots outside the store. This gives the clerks at the registers the ability to scan the parking lot without having to leave the register.
3. Educate employees to be vigilant and to look out for suspicious transactions.

O. C. Madden III
Personnel/Loss Prevention Manager
Brown Jug, Inc.



Making the Link



A national survey reported that 13 percent of youths, aged 12 to 17, had at least one serious alcohol problem related to drinking in the past year.¹

Underage drinking is linked to an increase in risky sexual behavior.

- According to a national survey of sexually active young people, 12 percent of teens aged 15 to 17 reported having unprotected sex as a result of having been drinking or using drugs. In addition, 74 percent reported that because of their substance use, they had "done more" sexually than they had planned.²
- Teenage girls who are heavy drinkers are five times more likely than nondrinkers to engage in sexual intercourse and a third less likely to use condoms, which can result in pregnancy and sexually transmitted diseases.³

Underage drinking is linked to an increased risk of fatalities and unintentional injuries.

- In 2000, youths aged 12 to 17 who reported past year alcohol use (19.6 percent) were more likely than youths who did not use alcohol (8.6 percent) to be at risk for suicide.⁴

Young drinking drivers are involved in fatal crashes at twice the rate of drivers aged 21 and older.⁵

- Early age of onset drinking may be an indicator of increased risk of alcohol-related injury. Those who start drinking before age 14 are 12 times more likely to be injured while under the influence of alcohol sometime in their life.⁶

Injured While Under the Influence of Alcohol According to Age of Drinking Onset



No. of Respondents
 130 845 1507 3155 2861 5693 2213 2078 7315

P<.001 for comparison of association between age of drinking onset and percentage engaging in each outcome

Source: Hingson, et al. 2000.

Early initiation is linked to future alcohol use and dependency problems.

- According to a longitudinal study of students in three States, middle school students were almost three times more likely to use alcohol if they had previously used alcohol in elementary school.⁷
- If drinking is delayed until age 21, a child's risk of serious alcohol related problems is decreased by 70 percent.⁸

Initiative Partners
 National Institute on Alcohol Abuse and Alcoholism (NIH)
 The Robert Wood Johnson Foundation
 Office of Research on Women's Health (NIH)
 National Center on Minority Health and Health Disparities (NIH)
 Office of Juvenile Justice and Delinquency Prevention (DOJ)
 Substance Abuse and Mental Health Services Administration (DHHS)
 National Highway Traffic Safety Administration (DOT)

¹ Substance Abuse and Mental Health Services Administration, National Household Survey on Drug Abuse Population Estimates 1998, Rockville, MD: U.S. Department of Mental Health and Human Services, 1999.
² Kaiser Family Foundation. Survey Snapshot: Substance Use and Risky Sexual Behavior: Attitudes and Practices Among Adolescents and Young Adults. Menlo Park CA: The Henry J. Kaiser Foundation, 2002.
³ The National Center on Addiction and Substance Abuse at Columbia University. Substance Abuse and the American Woman. New York: Columbia University, June 1996.
⁴ Office of Applied Studies. Substance Abuse and Mental Health Services Administration. NHSDA Report: Substance Use and the Risk of Suicide Among Youths. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2002.
⁵ National Highway Traffic Safety Administration (NHTSA). 2000 Youth Fatal Crash and Alcohol Facts. Washington, DC: US Department of Transportation, 2001.
⁶ Hingson RW, Heeren T, Jamaka A, et al. Age of drinking onset and unintentional injury involvement after drinking. JAMA 284(12):1527-1533, 2000.
⁷ Wilson N, Battistich V, Syme L, et al. Does elementary alcohol, tobacco, and marijuana use increase middle school risk? J Adolesc Health 30(6):442-447, 2002.
⁸ Grant BF, Dawson DA. Age at onset of alcohol use and association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey. J Subst Abuse 9:103-110, 1997.



Making the Link



Underage drinking is linked to violent and aggressive behavior.

According to a national survey, youths ages 12 to 17 who reported violent behaviors in the past year reported higher rates of past year illicit drug or alcohol use compared with youths who did not report violent behaviors.¹

Almost 12 percent of adolescent drinkers (about 1.2 million 7th – 12th graders) engage in alcohol-related physical fighting.²

A national study indicates that those who began drinking before age 14 were 11 times more likely to have ever been in a fight while drinking or after drinking than adults who began drinking after the age of 21.³

Youths ages 12 to 17 who had engaged in past month binge alcohol use were almost four times as likely to have carried a handgun in the past year compared with youths who had not engaged in binge drinking.⁴

Studies suggest that boys who drink are prone to fighting and sexual aggression.

In one study, males were almost twice as likely as females to engage in alcohol-related physical fighting (15.6 percent of males and 8.0 percent of females).⁵

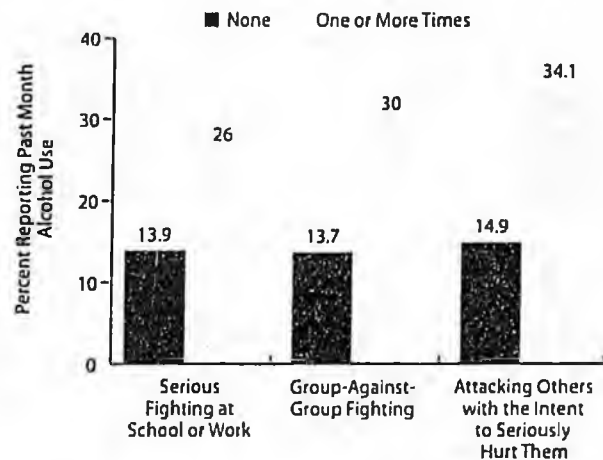
Among male high school students, 39 percent say it is acceptable for a boy to force sex with a girl who is drunk or high.⁶

Studies suggest that girls who drink are more likely to be victims of self-inflicted violence.

Among eighth grade girls who drink heavily, 37 percent report attempting suicide, whereas 11 percent of girls who do not drink report attempting suicide.⁷

Researchers estimate that alcohol use is implicated in one- to two-thirds of sexual assault and "date rape" cases among teens and college students.⁸

Percentage of Youths Aged 12 to 17 Reporting Past Month Alcohol Use, by Whether or Not They Participated in Violent Behaviors During the Past Year: 1999*



* Data presented differ from previously published data from the 1999 NHSDA because of corrections made to imputation procedures.
 Source: NHSDA Report, Youth Violence Linked to Substance Use, 2001.

Initiative Partners

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Substance Abuse and Mental Health Services Administration (DHHS)

National Highway Traffic Safety Administration (DOT)

¹ Office of Applied Studies. Substance Abuse and Mental Health Services Administration. NHSDA Report. Youth Violence and Substance Use, 2001 Update. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2002.
² Swahn MH. Epidemiology of alcohol-related fighting among adolescents. Paper presented at the 129th Annual Meeting of the American Public Health Association, October 23, 2001, Atlanta, GA.
³ Hingson R, Heeren T, Zakocs R. Age of drinking onset and involvement in physical fights after drinking. *Pediatrics* 103(4):872-877, 2001
⁴ Office of Applied Studies. Substance Abuse and Mental Health Services Administration. NHSDA Report: Youths Who Carry Handguns. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2001.
⁵ Swahn. Epidemiology of alcohol-related fighting among adolescents.
⁶ Office of the Inspector General, U.S. Department of Health and Human Services. Youth and Alcohol: Dangerous and Deadly Consequences. Washington, DC: Health and Human Services, 1992.
⁷ Windle MA, Miller-Tutzauer C, Domenico D. Alcohol use, suicidal behavior, and risky activities among adolescents. *J Res Adolesc* 2(4):317-330, 1992.
⁸ Office of the Inspector General. Youth and Alcohol.



Making the Link

Underage Drinking and Access to Alcohol

Communities need to do more to reduce the availability of alcohol to youth.

Research shows that controlling alcohol availability is effective in preventing alcohol-related problems.¹

These facts on alcohol availability show the challenge communities face:²

- Where access to alcohol is greater, consumption is greater. When consumption rates are high, problems related to alcohol increase dramatically.
- Local communities have the power to control alcohol availability, but most do not make full use of their power and resources.

Questions the community should address to help develop policies.³

What are the problems related to underage drinking in the community?

- What is the extent of underage drinking? Which groups of young people are using alcohol?
- When and where does underage drinking take place?
- When adults serve alcohol in their homes to other adults, are nonalcoholic alternatives also offered? Are underage youth typically served alcohol in private homes?
- How is alcohol marketed in the community? Are young people the target of any of this marketing?

What are the law enforcement issues?

- How many establishments that sell alcohol are within walking distance in a typical neighborhood?
- Is the 21-year-old legal drinking age strictly enforced in the community?
- Do members of the community support the police in their efforts to enforce the drinking age?
- What happens to vendors who habitually sell alcohol to minors?
- What happens to minors who purchase alcohol? Is the infraction taken seriously?

Actions communities can take to prevent underage access to alcohol.

The Center for Substance Abuse Prevention found that six approaches show the most promise for effective prevention.⁴

- Prevent underage youth from obtaining alcohol.
 Establish laws and policies to govern alcohol distribution methods, "happy-hour" policies, minimum legal purchase age, alcohol taxes, and licensing of alcohol outlets.
- Promote and enforce responsible beverage service.
 Change the conditions of availability—for example, regulate outlet density, create restrictions on alcohol sales, and develop regulations for alcohol at special events and locations.
- Limit the hours and days of alcohol sales.
 Use a community-based approach—involve concerned citizens and community groups, law enforcement and public officials, in an effort to recognize the need to change local laws, regulations, and policies.

¹ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention. Prevention Enhancement Protocols System (PEPS). Preventing Problems Related to Alcohol Availability: Environmental Approaches, Parent and Community Guide. Rockville, MD: Substance Abuse and Mental Health Services Administration, 1999.

² Ibid.

³ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention. Underage Drinking Prevention Action Guide and Planner. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2001.

⁴ Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention. Prevention Enhancement Protocols System (PEPS).

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National Highway Traffic Safety Administration (DOT)

**American Medical Association
Office of Alcohol and Other Drug Abuse
Robert Wood Johnson Foundation National Alcohol Program Offices
515 North State Street, Chicago, IL 60610**

Policy Options for Reduction of Alcohol Problems (3/03)

Family and Home

- Family policy, traditions, values
- Parental monitoring (of alcohol use, availability, child activities, after school hours)
- Parental modeling
- Supervise and monitor teenage parties (ban alcohol)
- Responsible/social hosting
- Clear family rules consistently enforced
- Parent-child communications

Specific to Schools (K-12)

- Adopt comprehensive school policy (prevention, intervention, enforcement) and support services
- Support after school activities Ban alcohol on school property
- Ban alcohol at all school events
- Ban alcohol advertising and sponsorship of activities
- Ban product advertising on student clothing

Opportunities for Social/Normative Controls

Community

- Counter-advertising campaigns
- Correction of misperceptions
- Highlight/counter second-hand effects of drinking (violence, diminished performance, etc.)
- Youth Advocacy (training, mentoring)
- Peer interactions
- Consumer education/media literacy
- Assure access to and promote alcohol screening, intervention and treatment services
- Community Cues:
 - Visible, consistent, clear enforcement
 - Low bar density
 - Restricted or banned alcohol service, promotion and advertising at public events (fairs, festivals, celebrations) and on public property
 - Merchant voluntary refusals to sell child-oriented drinks; reduce in store ads and promotions/displays

Media (Community, campus, organizations)

- Ban alcohol advertisements
- Prioritize stories about alcohol issues
- Limit pro-alcohol use images
- Place warnings on alcohol advertisements
- Portray only responsible alcohol use
- Refuse advertising which promotes unsafe or underage drinking practices (e.g , happy hours and drink specials)

Law enforcement (Community, Campus)

- Check alcohol outlets for compliance with state and municipal licensing and safety codes
- Conduct compliance checks
- Prioritize enforcement against adults who illegally provide alcohol to youth
- Alcohol incident data collection, mapping and publication
- Educate public, key populations about problems, laws, enforcement measures

Stadiums and Arenas (Community, Campus)

- Restrict sales and consumption to certain areas
- Sell only low-alcohol or non-alcoholic beverages
- Cease alcohol sales before end of event
- Prohibit bringing your own alcohol
- Ban alcohol advertisements
- Alcohol-free tail gate areas
- Prohibit re-entry to stadium

Hotels/motels

- Restrict age of room renters
- Adult supervision of party rooms/facilities

Worksites

- Restrict alcohol at work events
- Discourage alcohol consumption during work day
- Prohibit use of alcohol as a bonus

Insurance and Health Care Policies

- Premium discounts for
 - Outlets that train servers
 - Individuals who sign waivers of coverage if they have alcohol-related crashes
- Coverage of alcohol screening, intervention and treatment services

Religious institutions

- Restrict access to alcohol at social events
- Prohibit use of alcohol as a prize
- Refuse alcohol sponsorship of events and activities

Public Policy Options

Access: Underage

- Maintain & enforce minimum legal drinking age (MLDA), purchase/possession age
- Minimum age of seller
- Keg registration
- Drivers' license enhancement
- Require age identification
- Restrict sales of classes of alcohol
- Social Host Liability
- Ban minors in bars
- Ban adult sales and/or provision to minors – social host liability

Access: How and When Alcohol is Sold

- Maintain Public/private control of alcohol distribution systems
- Restrict hours and days of sale
- Restrict or ban sales at community events
- Mandatory server training
- Require server licensing
- Commercial/Dram shop/server liability
- Stop state preemption of local control
- Ban Electronic/internet sales
- Licensing and permit controls/limits
- Ban drive-up sales and sales as gas stations
- Ban home delivery
- Reduce drink/container size and number of drinks per sale

Zoning: Where Alcohol is Consumed and Sold

- Lower outlet Density
- Restrict outlet Locations (near schools, parks, churches, residential areas)
- Monitor outlet types (restaurant, tavern, off-sale, etc.)
- Ban sale and consumption in parks, public spaces (including government buildings & property, sidewalks, fairgrounds) – conditional permits only for special events
- Ban sales, consumption in stadiums/ greatly restrict sales
- Pass noise, nuisance, public disturbances, public intoxication ordinances
- Lease requirements (e.g. party size limitations, landlord accountability)

Pricing

- Raise excise taxes
- Increase license fees and penalties
- Ban or limit happy-hour sales
- Ban drink-specials (2 for one, all you can drink, ladies night, etc.)

Advertising and Promotion

- Require and post visible warning signs and labels (health risks, DUI, caloric and alcoholic content)
- Restrict alcohol advertisements/signage (location, number, size, placement, visibility)
- Refuse alcohol producer and distributor sponsorship of events, publications, activities
- Restrictions of alcohol advertisements on television and radio
- Advertising to children
- Restrict or ban alcohol billboards

Enforcement Mechanisms

- Administrative penalties – civil rather than criminal offenses more likely to be implemented
- Compulsory compliance checks
- Restricting open house assemblies
- Hotlines to report sales to minors or intoxicated persons
- Adequate funding for enforcement

Drinking and Driving

- Zero tolerance
- Lower legal BAC
- Graduated Licensing for minors
- Check points for intoxicated driving
- Media Campaigns
- Ban open containers in cars
- Administrative License Review
- Mandatory screening and referral for DUI offenders

Alcohol Merchants

- Mandatory manager and staff training and incentives (for compliance)
- Check age identification
- Post warning signs/ distribute warning fliers
- Secret shopper program
- Prohibit sales to individuals accompanied by minors (parents and guardians excepted)
- Eliminate drinking competitions and drink specials
- Serve drinks in standard sizes
- Promote food and non-alcoholic beverages
- Campus permits, restrictions or bans
- Service to intoxicated patrons/ over service

Some Useful Alcohol Policy and Alcohol Advocacy Resources

- American Medical Association Alcohol Programs: www.alcoholpolicysolutions.net
- Center on Alcohol Marketing and Youth: www.camy.org
- Center for Science in the Public Interest (CSPI) Alcohol Program: www.cspinet.org
- Higher Education Center (HEC) for Alcohol and Other Drug Prevention: www.edc.org/hec
- Leadership to Keep Children Alcohol Free: www.alcoholfreechildren.org
- Lincoln Responsible Hospitality Council:
www.interlinc.ci.lincoln.nc.us/city/council/rhc/index.html
- Marin Institute: www.marininstitute.org
- Mothers Against Drunk Driving: www.madd.org
- National Council on Alcoholism and Drug Dependency (NCADD): www.ncadd.org
- NIAAA College Task Force: www.collegedrinkingprevention.gov
- OJJDP Underage Drinking Enforcement Training Center: www.udetc.org
- Trauma Foundation - Alcohol and Violence Project: www.tf.org/tf/alcohol/ariv
- University of Minnesota Division of Epidemiology: www.epi.umn.edu/alcohol

For research, data, analyses, discussion of issues, and news:

- National Institute on Alcohol Abuse and Alcoholism (NIAAA): www.niaaa.nih.gov
- Join Together: www.jointogether.org

**ALCOHOL BEVERAGE CONTROL
ENFORCEMENT:
Legal Research Report**

Division of Legal Analysis and Enforcement
Center for Policy Analysis and Training
Pacific Institute for Research and Evaluation

Completed under contract with the
National Highway Traffic Safety Administration
IDC DTNH22-98-D-35079

April, 2003

**ALCOHOL BEVERAGE CONTROL ENFORCEMENT:
Legal Research Report**

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ALCOHOL BEVERAGE CONTROL ENFORCEMENT

Legal Research Report

Introduction

With the enactment of the 21st Amendment in 1933, the United States ended its experiment with national Prohibition. The amendment gave states the primary authority for determining whether alcohol could be sold legally and, if so, how. Since that time, 51 different alcohol control systems (in each state and the District of Columbia) have evolved, creating a patchwork of laws and regulations with wide variation across jurisdictions. In practice, the federal government retains primary authority over the production of alcohol, and the states exercise primary jurisdiction over the retail distribution system.

A fundamental premise of the state regulatory systems is that alcoholic beverages are potentially hazardous products and therefore should be subject to special conditions not applied to other commercial products. Underage drinking and intoxication are of particular concern because of their connection to alcohol-related motor vehicle crashes. States vary widely in their approach to these alcohol problems, and although these variations may have enormous implications for prevention and treatment, few studies have described them or assessed their effectiveness. This report addresses this gap in the research literature by analyzing variations in 12 key legal policies addressing underage drinking and drinking to intoxication:

- Purchase of alcohol by minors
- Attempted purchase of alcohol by minors
- Possession of alcohol by minors
- Consumption of alcohol by minors
- Use of false ID cards
- Furnishing alcohol to minors
- Furnishing alcohol to intoxicated individuals
- Responsible Beverage Service
- Keg registration
- False and misleading advertising
- Advertising that targets minors
- Limitations on happy hours and drink specials.

A typology in chart form is presented for each policy. The 50 states plus the District of Columbia are listed on the left-hand side. Selected variables and exceptions related to each policy appear across the top. Checkmarks indicate the presence of the policy and its variables and exceptions. An introductory section for each policy defines the variables and exceptions and briefly analyzes the policy, including noteworthy characteristics or variations and the relationship of the policy to other policies in the report. The legal research is current as of January 1, 2003.

PLEASE NOTE:

- 1. Each of the typologies contains variables that have been defined in specific and narrow ways that may not mirror either the law of any particular state or the customary definition in any one state or group of states. We chose the categories and definitions with legal conventions and requirements in mind. Please refer to the definitions as you interpret the variables in each category. State law may cover a topic generally but not include the specific language required in our definitions.*
- 2. Our analysis is based on a review of state statutes and regulations. In some cases, alcohol beverage control (ABC) agencies may have implemented laws in a manner that accomplishes the result we were seeking even though the laws themselves do not meet our criteria. The charts do not include the results of this formal or informal administrative decision making.*
- 3. Our analysis focuses exclusively on state legislation. Although local jurisdictions may have enacted provisions that fit into these categories, we did not include these provisions in our analysis.*

ATTEMPTED PURCHASE/PURCHASE OF ALCOHOL BY MINORS

In 1984, Congress enacted the National Minimum Drinking Age Law, which required that states – as a condition of receiving state highway funds – prohibit persons under the age of 21 from purchasing or publicly possessing alcohol. By 1988, every state had passed legislation to meet the federal funding requirements. Since that time, there have been significant reductions in fatal highway traffic crashes and other public health problems as a result of the federal and state legislation raising the minimum purchase age.¹ This positive public health impact has occurred despite insufficient enforcement. Researchers have hypothesized that effective enforcement would enhance the beneficial impact of the legislation, and they have noted that some states have provisions that hamper enforcement efforts.²

Accordingly, most states specifically prohibit minors from purchasing alcohol. However, four states – Delaware, Indiana, New York, and Vermont – prohibit minors from purchasing alcohol only if the minor uses fraudulent identification or false statements. It is unclear how significant this variation is in practice. As discussed below, a purchase made in these states without using fraudulent means is probably still illegal under possession statutes. In addition, several states have exceptions to their purchase statutes that allow minors to purchase alcohol under limited circumstances. Unlike possession statutes (see below), the exceptions are relatively rare and provide very limited opportunities for minors to purchase alcohol. The most common exception – a purchase that occurs as part of a compliance check – provides an important tool for reducing illegal sales to minors. Exceptions included in the chart below are defined as follows:

- **Employment**—one state permits minors to purchase alcohol if in connection with their employment.
- **Student**—two states allow minors to purchase alcohol if in connection with being a student or for educational purposes.
- **Religious services**—one state permits minors to purchase alcohol if in connection with religious services.
- **Medical treatment**—two states permit minors to purchase alcohol if in connection with medical treatment.
- **Parent, guardian, or custodian consent or presence**—two states allow minors to purchase alcohol in the presence of, accompanied by, or with the consent of a parent, guardian, or custodian.
- **Spouse consent or presence**—one state allows minors to purchase alcohol in the presence of or with the consent of their legal-aged spouse.
- **Law enforcement**—13 states permit minors to purchase alcohol in connection with an investigation or “sting” operation conducted in conjunction with law enforcement officials (and, in several states, licensees or employers, see footnotes in the chart below) to identify illegal alcohol sales. This

¹ Wagenaar A and Toomey T. (2002). Effects of minimum drinking age laws: Review and analyses of the literature from 1960 to 2000. *Journal of Studies on Alcohol, Supplement No. 14*: 206-225.

² Wagenaar A. and Wolfson M. (1994). Enforcement of the legal minimum drinking age in the United States. *Journal of Public Health Policy* 15: 37-53.

exception often requires parental consent and specifies a minimum age at which minors can participate; many states require minors to be at least 18 years old. Many states may have this exception as part of an administrative decision even though there is no statutory provision. As noted above, our analysis does not include such decisions.

In contrast to the possession and consumption statutes analyzed below, no state exempts purchases in private settings, probably because to do so would appear to violate the National Minimum Drinking Age Law of 1984

The same exceptions apply or can be applied by implication to statutory provisions that prohibit attempted purchase of alcohol by minors. Attempted purchase is often, but not always, explicitly included in the statute related to the purchasing of alcohol by minors. Attempted purchases are conceptually a lesser-included part of the offense of purchasing – one cannot purchase alcohol without attempting to purchase it. Most states permit prosecutions for attempted crimes that involve affirmative acts even if the statutory crime does not explicitly include “attempt” language. Thus, states that do not explicitly include “attempted purchase” language probably still permit prosecution for such an offense. In addition, law enforcement officials did not identify the lack of an “attempted purchase” statute as a barrier to law enforcement.

Purchase provisions should be analyzed in conjunction with possession statutes (see below for analysis of possession statutes). Arguably, one cannot purchase alcohol without possessing it although one can possess it without purchasing (or attempting to purchase) it. Thus, a minor who purchases alcohol is potentially liable for two offenses. Purchasing alcohol is generally considered the more serious of the two offenses. This is an important factor in the analysis of several states’ lack of a purchasing statute comparable to that of the other 46 states and the District of Columbia.

Attempted Purchase/Purchase of Alcohol by Minors

	Attempted Purchase by Minors	Purchase by Minors	EXCEPTIONS						
			Employment	Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Law Enforcement
Alabama	√	√							
Alaska		√							
Arizona		√							√
Arkansas		√							
California	√	√							√
Colorado	√	√							
Connecticut	√	√							
Delaware ³									
District of Columbia	√	√							
Florida	√	√							
Georgia	√	√			√	√			
Hawaii		√							√

³ Delaware does not have a statute that specifically prohibits attempted purchase or purchase but does prohibit “obtaining” alcohol in connection with making a false statement.

	Attempted Purchase by Minors	Purchase by Minors	EXCEPTIONS						
			Employment	Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Law Enforcement
Idaho	√	√							
Illinois ⁴		√							√
Indiana ⁵									
Iowa	√	√							
Kansas ⁶	√	√							√
Kentucky	√	√							
Louisiana		√				√			
Maine		√							
Maryland		√							
Massachusetts	√	√							
Michigan ⁷	√	√							√
Minnesota ⁸	√	√		√					
Mississippi		√							
Missouri	√	√							
Montana	√	√							
Nebraska	√	√							
Nevada		√							
New Hampshire	√	√							
New Jersey	√	√							
New Mexico	√	√							
New York ⁹									
North Carolina	√	√							
North Dakota	√	√							
Ohio	√	√							
Oklahoma	√	√					√		√
Oregon ¹⁰	√	√							√
Pennsylvania	√	√							√
Rhode Island	√	√							
South Carolina		√	√	√					
South Dakota	√	√							

⁴ Illinois's exception allows minors to purchase or possess alcohol if they are participating in a licensee "sting operation."

⁵ Indiana does not have a statute that specifically prohibits attempted purchase or purchase, but does prohibit attempted purchase or purchase in connection with making a false statement of age. Enforcement officials indicated that they use the possession statute or law prohibiting minors in taverns.

⁶ Kansas's exception allows minors to "violate the provisions of the Kansas Liquor Control Act" if they are under the direction of a licensee self-compliance program.

⁷ Michigan's exception allows minors to "purchase or receive" alcohol as a part of an undercover operation by direction of an employer.

⁸ Minnesota's exception allows attempted purchase or purchase by minors if they are supervised by a person 21 years or older for "training, education, or research purposes."

⁹ New York does not have a statute that specifically prohibits attempted purchase or purchase but does prohibit attempted purchase or purchase through "fraudulent means."

¹⁰ Oregon's exception indicates that its prohibitions do not apply to minors who are acting under the direction of a licensee for the purpose of investigating possible violations by the licensee's employees of laws prohibiting sales to minors.

	Attempted Purchase by Minors	Purchase by Minors	EXCEPTIONS						
			Employment	Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Law Enforcement
Tennessee	√	√							√
Texas	√	√							√
Utah	√	√							
Vermont ¹¹									
Virginia	√	√							
Washington ¹²	√	√							√
West Virginia	√	√							√
Wisconsin	√	√					√	√	
Wyoming	√	√							
State Totals	36	47	1	2	1	2	2	1	13

¹¹ Vermont does not have a statute that specifically prohibits attempted purchase or purchase but does prohibit "procuring" or "attempting to procure" alcohol in connection with false representations of age.

¹² Washington's exception allows minors 18 years and older to purchase alcohol if they are participating in employer self-compliance checks.

POSSESSION OF ALCOHOL BY MINORS

As noted above, the National Minimum Drinking Age Law of 1984 provides that states will lose certain highway funds unless they make the purchase and public possession of alcohol by minors illegal. The statute does not provide specific guidance regarding the definition of "public possession," which by its terms does not include possession in privately owned locations.

All states prohibit possession of alcohol by minors to some extent, and all appear to be in compliance with the federal statute. However, states apply various statutory exceptions, and these exceptions are more expansive and more prevalent than those found in purchasing statutes.

Exceptions found in the chart below are defined as follows:

- **Employment**—45 states permit minors to possess alcohol in connection with their employment. One state, Wyoming, also allows possession by minors who are licensees.
- **Student**—six states permit minors to possess alcohol in connection with being a student or for educational purposes (often specifically linked to culinary schools).
- **Religious services**—18 states allow minors to possess alcohol in connection with religious services.
- **Medical treatment**—14 states allow minors to possess alcohol in connection with medical treatment.
- **Parent, guardian, or custodian consent or presence**—33 states permit minors to possess alcohol in the presence of, accompanied by, or with the consent of a parent, guardian, or custodian. States vary widely in terms of which relatives must be present for the exception to apply and in what circumstances. For example, Massachusetts allows possession by minors if they are "accompanied by parent or legal guardian"; Delaware allows possession in the "private home" of any "members of the same family"; Oregon allows possession of alcohol in a "private residence . . . accompanied by parent or guardian . . . with [his or her] consent," etc.
- **Spouse consent or presence**—nine states permit minors to possess alcohol in the presence of or with the consent of their legal-aged spouse.

Three exceptions are related: the first, Any Private Location, includes Private Residence, which, in turn, includes Only Minor's/Parent's/Guardian's Home. States were categorized according to the most narrowly drawn category into which their statutory provisions fit. States vary in the extent of the private property exception and the specific wording.

- **Any private location**—ten states allow minors to possess alcohol in any private location (including any private residence or venue). This exception is often implied by statutory provisions that indicate the converse – that is, a state prohibits minors from possessing alcohol in any *public* place.
- **Private residence**—seven states allow minors to possess alcohol only in a private residence.

- **Only minor's, parent's, or guardian's home**—four states permit minors to possess alcohol only in the minor's, parent's, or guardian's home or primary residence.
- **Law enforcement**—nine states permit minors to possess alcohol in connection with an investigation or "sting" operation conducted by law enforcement officials (and, in several states, licensees or employers, see footnotes below) to identify illegal alcohol sales. This exception often requires parental consent and specifies a minimum age at which minors can participate; many states require minors to be at least 18 years old. Many states may have this exception as part of an administrative decision even though there is no statutory provision. As noted above, our analysis does not include such decisions.

The exceptions related to possession on private property and in private residences are the most important in terms of underage drinking and related problems. Law enforcement officials report that the exceptions can create significant barriers to preventing or ending underage drinking parties in private settings, particularly in private residences. Many communities report that these events often involve heavy drinking, drinking and driving, sexual assaults, and other forms of violence. Yet in some states, the minors involved in the events are not violating the law, and if no adult is present, no crime is being committed.

As with purchase statutes, the law enforcement exception provides an important tool for enforcing prohibitions on sales to minors. Note that this exception probably does not need to be present in both the possession and the purchase provisions. An effective compliance check can be conducted if the minor involved is allowed to purchase or possess alcohol as part of the enforcement procedure.

Possession of Alcohol by Minors

	Possession by Minors	EXCEPTIONS									
		Employment	Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor's/Parent's/Guardian's Home	Law Enforcement
Alabama	√	√									
Alaska	√				√	√	√				
Arizona	√	√		√							
Arkansas	√	√									
California ¹	√	√				√		√			
Colorado ²	√			√	√	√		√			
Connecticut	√	√			√	√	√	√			
Delaware ³	√	√		√		√			√		

¹ California's exception allows possession when a minor is making a delivery by order of a parent, relative, or another adult designated by the parent.

² Colorado's exception requires the knowledge and consent of the owner of the private property when minors possess or consume alcohol (in addition to the consent or presence of a parent or guardian). Also, it is an affirmative defense to illegal possession or consumption that existence of ethyl alcohol in a minor's body is due solely to ingested confectionery or a beverage that contained less than 0.5 percent of ethyl alcohol by weight.

³ Delaware's exception includes "members of the same family" and allows possession or consumption in the "private home of any of said members."

	Possession by Minors	EXCEPTIONS									
		Employment	Student	Religious Services	Medical Treatment	Parent/ Guardian/ Custodian/ Consent/ Presence	Spouse Consent/ Presence	Any Private Location	Private Residence	Only Minor's/ Parent's/ Guardian's Home	Law Enforce- ment
District of Columbia	√	√									
Florida	√	√	√								
Georgia	√	√		√	√	√				√	
Hawaii	√	√		√	√	√		√			√
Idaho ⁴	√	√				√			√		
Illinois ⁵	√	√		√		√		√			√
Indiana	√	√									
Iowa	√	√			√	√			√		
Kansas ⁶	√	√				√					√
Kentucky	√	√									
Louisiana	√	√		√	√	√	√		√		
Maine	√	√				√			√		
Maryland ⁷	√	√		√		√			√		
Massachusetts	√	√				√					
Michigan ⁸	√	√		√							√
Minnesota	√	√				√				√	
Mississippi	√	√				√	√	√			
Missouri	√	√			√	√					
Montana	√	√		√	√	√					
Nebraska	√	√		√	√					√	√
Nevada	√	√		√	√	√	√	√			
New Hampshire	√	√									
New Jersey ⁹	√	√	√	√		√					
New Mexico	√	√				√		√			
New York	√	√	√			√					
North Carolina	√										
North Dakota	√	√									
Ohio	√			√	√	√	√				
Oklahoma	√	√				√		√			
Oregon ¹⁰	√			√		√			√		√

⁴ Idaho's exception allows possession of beer or wine when the minor is making a delivery by order of his or her parent.

⁵ Illinois's exception allows minors to purchase or possess if they are part of a licensee's "sting operation."

⁶ Kansas's exception allows minors to "violate the provisions of the Kansas Liquor Control Act" if they are under the direction of a licensee's self-compliance program.

⁷ Maryland's exception allows possession or consumption of alcohol by minors if an adult member of their immediate family allows it.

⁸ Michigan's exception allows minors to "purchase or receive" alcohol as a part of an undercover operation by direction of an employer.

⁹ New Jersey's exception allows possession or consumption of alcohol by minors with the permission of and in the presence of a relative 21 years or older.

¹⁰ Oregon's exception indicates that its prohibitions do not apply to minors who are acting under the direction of a licensee for the purpose of investigating possible violations by the licensee's employees of laws prohibiting sales to minors.

	Possession by Minors	EXCEPTIONS									
		Employment	Student	Religious Services	Medical Treatment	Parent/ Guardian/ Custodian/ Consent/ Presence	Spouse Consent/ Presence	Any Private Location	Private Residence	Only Minor's/ Parent's/ Guardian's Home	Law Enforce- ment
Pennsylvania	√			√							√
Rhode Island	√	√									
South Carolina	√	√	√	√		√				√	
South Dakota	√	√			√	√	√				
Tennessee	√	√									
Texas	√	√				√	√				√
Utah	√	√									
Vermont	√	√	√								
Virginia	√	√				√					
Washington	√	√	√	√	√	√					
West Virginia	√	√									√
Wisconsin	√	√				√	√				
Wyoming ¹¹	√	√				√		√			
State Totals	51	45	6	18	14	33	9	10	7	4	9

¹¹ Wyoming's exception allows a minor licensee to possess alcohol.

CONSUMPTION OF ALCOHOL BY MINORS

Most but not all states prohibit consumption of alcohol by minors as well as possession. Possession and consumption are closely linked. One can't consume alcohol without possessing it although one can possess it without consuming it. Possession and consumption are usually treated as equivalent offenses and are seldom charged separately. Nevertheless, law enforcement officials report that it is important to have a separate law for each activity. The distinction may facilitate enforcement at drinking parties where the alcohol cannot be recovered, but evidence of consumption is available through observation or breath or urine tests. We were unable to verify through any legal analysis that such a fact pattern would be more easily accomplished through a prohibition against consumption than through a possession provision. The evidence appears to be equally relevant to both activities because one cannot consume without possessing. However, specific fact patterns in case law have made this distinction between possession and consumption, indicating that a minor may not necessarily be charged with possession despite evidence of consumption.

Moreover, in states maintaining a distinction between these provisions, the employment exception appears to hold some significance: a minor employee of an alcohol establishment may be permitted to possess but not to consume. In addition, some states apply different exceptions to their possession and consumption statutes.

Exceptions to consumption of alcohol by minors are identical (except for the employment Exception) to those found in the possession statutes. Please refer to the definitions above.

Consumption of Alcohol by Minors

	Consumption by Minors	EXCEPTIONS								
		Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor's/Parent's/Guardian's Home	Law Enforcement
Alabama	√									
Alaska	√			√	√	√				
Arizona	√		√	√						
Arkansas										
California	√									
Colorado ¹	√		√	√	√		√			
Connecticut										
Delaware ²	√		√		√			√		
District of Columbia	√									
Florida										
Georgia										
Hawaii										

¹ Colorado's exception requires the knowledge and consent of the owner of the private property when minors possess or consume alcohol (in addition to the consent or presence of a parent or guardian). Also, it is an affirmative defense to illegal possession or consumption that existence of ethyl alcohol in minor's body is due solely to ingested confectionery or a beverage that contained less than 0.5 percent of ethyl alcohol by weight.

² Delaware's exception includes "members of the same family" and allows possession or consumption of alcohol by minors in the "private home of any of said members."

	Consumption by Minors	EXCEPTIONS								
		Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor's/Parent's/Guardian's Home	Law Enforcement
Idaho	√									
Illinois	√		√		√			√		
Indiana	√									
Iowa										
Kansas ³	√				√					√
Kentucky										
Louisiana	√		√	√	√	√		√		
Maine	√				√			√		
Maryland ⁴	√		√		√			√		
Massachusetts										
Michigan	√	√	√							
Minnesota	√				√				√	
Mississippi										
Missouri										
Montana	√		√	√	√					
Nebraska	√		√						√	√
Nevada	√									
New Hampshire										
New Jersey ⁵	√		√		√					
New Mexico										
New York	√	√			√					
North Carolina	√									
North Dakota	√		√							
Ohio	√		√	√	√	√				
Oklahoma	√				√					
Oregon	√		√		√			√		
Pennsylvania	√		√							
Rhode Island	√									
South Carolina										
South Dakota	√		√	√	√	√				
Tennessee	√		√							
Texas	√				√	√				
Utah	√			√						
Vermont	√	√								
Virginia										
Washington	√		√	√	√					

³ Kansas's exception allows minors to "violate the provisions of the Kansas Liquor Control Act" if they are under the direction of a licensee's self-compliance program.

⁴ Maryland's exception allows possession or consumption of alcohol by minors if an adult member of their immediate family allows it.

⁵ New Jersey's exception allows possession or consumption of alcohol by minors with the permission and in the presence of a relative 21 years or older.

	Consumption by Minors	EXCEPTIONS								
		Student	Religious Services	Medical Treatment	Parent/ Guardian/ Custodian Consent/ Presence	Spouse Consent/ Presence	Any Private Location	Private Residence	Only Minor's/ Parent's/ Guardian's Home	Law Enforcement
West Virginia	√									
Wisconsin	√				√	√				
Wyoming										
State Totals	36	3	17	9	19	6	1	6	2	2

USE OF FALSE IDENTIFICATION CARDS

There are several policies that address the use of false identification cards by minors. Specific prohibitions against the use of such cards to purchase alcohol are usually found in the ABC codes in each state. Associated policies include the following: (1) prohibitions against lending or transferring false identification cards for the purpose of purchasing alcohol; (2) prohibitions against the manufacture or sale of false identification cards; (3) exemptions for alcohol retailers who mistakenly rely on apparently valid identification cards that are false; and (4) the rights of retailers to confiscate false identification cards.

Though all of these policies are relevant in deterring underage purchases of alcohol, we focused our research on two: (1) prohibiting the use of false identification by minors to purchase alcohol; and (2) prohibiting the lending or transferring of false identification cards to others. We determined that these two provisions were important to law enforcement in deterring underage purchases and were also the most feasible in terms of conducting the necessary legal research.

Prohibitions against the manufacture or sale of false identifications are also important to law enforcement, but according to secondary sources, many sales of false identifications are made in interstate commerce via the Internet. It is unclear to what extent a state has authority to regulate these sales. Because this rapidly developing policy area would require extensive review of the case law in each state, we determined that it was not feasible to analyze this area for this project.

The exemption for retailers who mistakenly rely on false identification cards is a provision more closely associated with illegal sales than with illegal purchases. The existence of this provision in a state will have no effect on the likelihood of a minor using a false identification card for his or her purchase. Thus, we did not include this provision in our research.

Finally, although the right of a retailer to confiscate false identification cards might reduce illegal sales by removing the confiscated IDs from circulation, this provision does not appear to increase the likelihood of detection or prosecution, and secondary sources suggest that false identifications are readily available (and therefore easily replaced after confiscation). Consequently, we did not include this provision in our research.

It is worthwhile to note that state statutes may prohibit false statements and/or the use of false identification cards. Interviews with state alcohol law enforcement officials confirm our legal analysis: a statute that prohibits the use of false statements includes by inference the use of a false identification card. In other words, presenting a false identification card is equivalent to making a false statement. We have concluded that it is not necessary to distinguish between "false statement" and "false identification" language in the statutes. A minor who makes a false statement regarding age but does not use a false identification card is most likely to be prosecuted for an illegal attempted purchase whether or not the false identification statute encompasses the use of both false statements and false identification cards.

The chart below indicates that all 50 states and the District of Columbia prohibit the use of false identification cards by minors, and the majority make lending and transferring identification cards illegal as well.

Use of False Identification Cards

	Use of False ID Cards by Minors	Lending/Transferring ID Cards
Alabama	√	
Alaska	√	
Arizona	√	
Arkansas	√	√
California	√	√
Colorado	√	√
Connecticut	√	
Delaware	√	
District of Columbia	√	
Florida	√	√
Georgia	√	
Hawaii	√	√
Idaho	√	√
Illinois	√	√
Indiana	√	√
Iowa	√	√
Kansas	√	√
Kentucky	√	
Louisiana	√	√
Maine	√	√
Maryland	√	
Massachusetts	√	√
Michigan	√	√
Minnesota	√	√
Mississippi	√	√
Missouri	√	
Montana	√	
Nebraska	√	√
Nevada	√	√
New Hampshire	√	√
New Jersey	√	√
New Mexico	√	√
New York	√	√
North Carolina	√	√
North Dakota	√	
Ohio	√	
Oklahoma	√	
Oregon	√	√
Pennsylvania	√	
Rhode Island	√	√
South Carolina	√	√
South Dakota	√	√
Tennessee	√	
Texas	√	
Utah	√	√
Vermont	√	

	Use of False ID Cards by Minors	Lending/Transferring ID Cards
Virginia	√	√
Washington	√	√
West Virginia	√	
Wisconsin	√	√
Wyoming	√	√
State Totals	51	32

FURNISHING ALCOHOL TO MINORS

All states and the District of Columbia prohibit furnishing alcoholic beverages to minors, even though the 1984 federal legislation does not explicitly require this prohibition. The prohibition usually applies to both commercial and noncommercial servers, although extensive case law research would be required to determine which states limit the prohibition to commercial sellers. This is because the language is unclear in many statutes. In addition, the prohibition is usually found in the Alcoholic Beverage Control Codes, which apply primarily to commercial sellers and servers. Because of these difficulties, we did not determine whether the prohibition found in each state applies to noncommercial as well as commercial transactions.

The states vary widely regarding the specific acts that are prohibited. Arizona law, for example, states that it is illegal to "sell, furnish, dispose of or give [alcohol], or cause [alcohol] to be sold, furnished, disposed of or given" to an underage person. California's provision is almost identical but omits the reference to "disposing of" alcohol to a minor. Kansas prohibits delivering and exchanging alcohol with a minor in its list of prohibitions. Michigan, on the other hand, only includes the terms "sell" and "give". Our analysis concluded that it wasn't important which specific prohibited acts were included in the state statutes. Michigan's short list of "sell" and "give" is as effective legally as the longer lists found in other states. As noted above, even if the list appears incomplete (e.g., it does not appear on its face to cover noncommercial transactions), courts may interpret the statutory language expansively. We therefore did not catalog the specific acts that were prohibited, but merely confirmed that both sales and gifts were included.

The categories of exceptions applied to minor possession, consumption, and purchase of alcohol also apply to those who provide alcohol to minors.¹ States do not always apply the same exception to both the provider and the minor. California, for example, permits minors to possess alcohol in private venues, but it is illegal for anyone to provide alcohol to minors in either public or private settings. In certain situations, courts may conclude that an exception for the provider should be implied from that granted to the minor even if it is not explicitly included in the statutes (and vice versa). This is particularly relevant to exceptions for the parents and relatives and for employment. For example, a court might conclude that if a law that explicitly allows a minor to possess alcohol in the presence of his or her parent, the parent is permitted to provide it to the child.

As in the possession statutes, exceptions are provided for furnishing alcohol to persons under the age of 21 who are employees of licensed establishments. These exceptions are often covered under separate statutes that deal with the minimum age of sellers and servers in licensed outlets. We did not include these in this chart. Exceptions included in the chart are defined as follows:

- **Parent/guardian**—23 states permit parents and legal guardians to provide alcohol to their minor children or wards.
- **Legal-aged spouse**—eight states allow a person age 21 years or older to provide alcohol to his or her underage spouse.
- **Religious services**—nine states permit alcohol to be served to minors in connection with religious services.

¹ Note that these exceptions apply to noncommercial furnishers of alcohol. States that have these exceptions, by implication, prohibit noncommercial service of alcohol to minors. As noted above, states without an exception listed in our chart may permit noncommercial furnishing to minors generally.

- **Medical treatment**—11 states permit alcohol to be given to minors in connection with medical treatment.
- **Education**—three states permit educational institutions to provide alcohol to minors in connection with being a student or for educational purposes.

Furnishing Alcohol to Minors

	Furnishing Alcohol to Minors	EXCEPTIONS				
		Parent/Guardian	Legal-aged Spouse	Religious Services	Medical Treatment	Education
Alabama	√					
Alaska ²	√	√	√		√	
Arizona	√					
Arkansas ³	√	√	√	√		
California	√					
Colorado	√					
Connecticut	√	√	√		√	
Delaware	√	√		√		
District of Columbia	√					
Florida	√					√
Georgia	√					
Hawaii	√					
Idaho	√					
Illinois	√			√		
Indiana	√					
Iowa	√	√			√	
Kansas ⁴	√	√				
Kentucky	√	√				
Louisiana	√					
Maine	√	√				
Maryland	√					
Massachusetts	√	√				
Michigan	√					
Minnesota	√	√				
Mississippi	√					
Missouri	√	√				
Montana ⁵	√	√		√	√	
Nebraska	√					

²Alaska's statute includes references to "legal spouse" rather than "legal-aged spouse." The exceptions apply only off the licensed premises.

³Arkansas's statute refers to "family members" but does not specify which family members.

⁴In Kansas, parents or legal guardians may provide only cereal malt beverage to their minor child or ward.

⁵In Montana, §16-6-305 1(b) specifies that "a parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age." Section 16-6-305 1(c) defines "intoxicating quantity" as "a quantity of an alcoholic beverage that is sufficient to produce: (i) a blood, breath, or urine alcohol concentration in excess of 0.05; or (ii) substantial or visible mental or physical impairment."

	Furnishing Alcohol to Minors	EXCEPTIONS				
		Parent/Guardian	Legal-aged Spouse	Religious Services	Medical Treatment	Education
Nevada	√	√			√	
New Hampshire	√					
New Jersey	√					
New Mexico	√	√				
New York	√					√
North Carolina	√					
North Dakota	√					
Ohio	√	√	√	√	√	
Oklahoma	√					
Oregon	√	√				
Pennsylvania	√			√		
Rhode Island	√					
South Carolina	√	√	√	√		√
South Dakota	√	√	√		√	
Tennessee	√					
Texas	√					
Utah	√	√			√	
Vermont	√					
Virginia	√				√	
Washington	√	√		√	√	
West Virginia ⁶	√	√	√			
Wisconsin	√	√	√	√		
Wyoming	√	√			√	
State Totals	51	23	8	9	11	3

⁶ In West Virginia, both §60-3-22a and §60-3A-24 state that "Any person who knowingly buys for, gives to or furnishes to anyone under the age of twenty-one to whom he or she is not related by blood or marriage any liquor from whatever source, is guilty of a misdemeanor...."

FURNISHING ALCOHOL TO INTOXICATED INDIVIDUALS

Almost every state and the District of Columbia have a provision that prohibits sales and service of alcohol to intoxicated persons. The primary ways in which the states describe the offense include specific wording related to intoxication levels and the types of prohibitions enumerated. For example, the following words are used to describe intoxicated persons:

- obviously intoxicated
- visibly intoxicated
- appears to be intoxicated
- noticeably intoxicated
- reason to believe is intoxicated
- apparently under the influence of liquor.

At least one state, Arizona, defines what it means to be obviously intoxicated. AZ ST 4-244 states:

For purposes of this section, "obviously intoxicated" means inebriated to the extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical dysfunction that would have been obvious to a reasonable person.

Although there is variation in the language used to describe the state of intoxication, it does not appear to make a practical difference in terms of court interpretation or enforcement practices.

Differences across state statutes also include the standard of proof required as evidence of intoxication. For example, some states require knowledge of the person's intoxication, although most apply a negligence standard (a reasonable person in like circumstances should have known that the person was intoxicated). The only method for determining the standard of proof applied in a given state is to analyze case law, and, in many cases, such an analysis will be inconclusive. Therefore we did not attempt to catalog the standard of proof variable.

Furnishing Alcohol to Intoxicated Individuals

	Furnishing Alcohol to Intoxicated Individuals
Alabama	√
Alaska	√
Arizona	√
Arkansas	√
California	√
Colorado	√
Connecticut	√
Delaware	√
District of Columbia	√
Florida	
Georgia	√
Hawaii	√
Idaho	√

	Furnishing Alcohol to Intoxicated Individuals
Illinois	√
Indiana	√
Iowa	√
Kansas	√
Kentucky	√
Louisiana	√
Maine	√
Maryland	√
Massachusetts	√
Michigan	√
Minnesota	√
Mississippi	√
Missouri	√
Montana	√
Nebraska	√
Nevada	
New Hampshire	√
New Jersey	√
New Mexico	√
New York	√
North Carolina	√
North Dakota	√
Ohio	√
Oklahoma	√
Oregon	√
Pennsylvania	√
Rhode Island	√
South Carolina	√
South Dakota	√
Tennessee	√
Texas	√
Utah	√
Vermont	√
Virginia	√
Washington	√
West Virginia	√
Wisconsin	√
Wyoming ¹	
State Totals	48

¹ In Wyoming, §12-5-301 states that "No order shall be received from nor delivery made to a person under twenty-one (21) years of age or an intoxicated person in the area." Since this provision applies only to "Drive-In Areas," we did not include this state as having a provision that prohibits furnishing alcohol to intoxicated individuals.

RESPONSIBLE BEVERAGE SERVICE

Responsible Beverage Service (RBS) or server training programs have two goals: (1) to establish policies and procedures in retail alcohol outlets for preventing alcohol sales and service to minors and intoxicated persons; and (2) to train managers and servers/clerks to implement those policies and procedures effectively. Server/clerk training focuses on serving and selling procedures, signs of intoxication, methods for checking age identification, and intervention techniques. Manager training includes the server/clerk training as well as policy and procedures development and staff supervision.

Experimental RBS programs first appeared in the early 1980s. States with RBS provisions have either mandatory programs or incentive-based voluntary programs. Voluntary, private programs exist to varying degrees in the other states, but those states do not have provisions that provide statewide structure for the design and implementation of these programs.

A program is designated as mandatory if state law requires at least some alcohol retail employees to attend a RBS training. Thirteen states require some type of RBS training, but these states vary widely in who must participate:

- *Type of employee*: statutes may require owners or licensees, managers and servers/clerks, or a subset of these classifications to participate;
- *Type of outlet*: statutes may require either on-sale or off-sale establishments, or both, to participate; and
- *Date of license issuance*: statutes may require participation from establishments with licenses issued after the legislation is enacted or from all establishments, regardless of the date of the license.

The eleven states that have established voluntary programs provide incentives for retailers to participate in RBS, but do not impose penalties for those who don't. Incentives vary by state and include (1) a defense in dram shop liability law suits; (2) mitigation of fines for sales to minors or intoxicated persons; (3) discounts in dram shop liability insurance; and (4) protection against revocation of a license for sales to minors or intoxicated persons.

Whether mandatory or voluntary, RBS programs vary in training curricula components; procedures for administering the program; certificate requirements for RBS trainers, servers/clerks, and managers; penalties for violations; and enforcement practices. These variables may have a dramatic impact on the program's effectiveness in reducing sales to minors and intoxicated persons.

The following variables pertain to mandatory provisions:

- **Employee categories**—of the 13 states that require mandatory RBS training, 7 require the licensee, managers, and servers to attend; 5 states require only managers and servers to take the training; and 1 requires the licensee and managers to attend.
- **Establishment types**—eight states require that on- and off-sale establishments participate in RBS training; four states require only on-premise establishments to participate; and one requires only off-premise establishments to receive training.

- **Date of issuance of license**—all 13 of the states that require mandatory RBS training require new licensees to participate, and 2 states exempt establishments licensed before the legislation was enacted.

The variables that pertain to voluntary incentives are as follows:

- **Liability defense**—three states allow licensees to use their RBS training as a defense in dram shop liability cases.
- **Mitigation of fines**—seven states allow fines for sales of alcohol to minors or intoxicated persons to be mitigated if the licensee can demonstrate that he or she participated in RBS training.
- **Discount insurance**—three states allow discounts in dram shop liability insurance if the licensee has participated in RBS training.
- **Protection of license**—three states provide protection against revocation for sales of alcohol to minors or intoxicated persons if the licensee has participated in RBS training.

Responsible Beverage Service

	RBS Provision		Mandatory States							Voluntary States			
			Categories of Employees Required to Attend RBS Training			Establishment Type Required to Participate		Applies to New or Existing Licenses		Incentives			
	Man-datory	Volun-tary	Licensee	Manager	Server	On	Off	New	Existing	Liability Defense	Miti-gation of Fines	Dis-count Ins.	Pro-tection of License
Alabama		√										√	√
Alaska	√			√	√	√	√	√	√				
Arizona		√									√		
Arkansas		√									√		
California													
Colorado													
Connecticut													
Delaware	√		√	√	√	√	√	√	√				
District of Columbia													
Florida		√									√		√
Georgia													
Hawaii													
Idaho													
Illinois		√									√	√	
Indiana		√									√		
Iowa													
Kansas													
Kentucky													
Louisiana	√			√	√	√	√	√	√				

	RBS Provision		Mandatory States							Voluntary States			
			Categories of Employees Required to Attend RBS Training			Establishment Type Required to Participate		Applies to New or Existing Licenses		Incentives			
	Man-datory	Volun-tary	Licensee	Manager	Server	On	Off	New	Existing	Liability Defense	Miti-gation of Fines	Dis-count Ins.	Pro-tection of License
Maine		√								√			
Maryland	√		√	√	√	√	√	√	√				
Massachusetts													
Michigan		√										√	
Minnesota													
Mississippi													
Missouri													
Montana													
Nebraska													
Nevada													
New Hampshire		√								√	√		
New Jersey	√		√	√			√	√	√				
New Mexico	√			√	√	√	√	√	√				
New York													
North Carolina													
North Dakota													
Ohio													
Oklahoma													
Oregon	√			√	√	√		√	√				
Pennsylvania	√			√	√	√	√	√	√				
Rhode Island		√								√	√		
South Carolina													
South Dakota													
Tennessee	√		√	√	√	√		√	√				
Texas		√											√
Utah	√		√	√	√	√		√	√				
Vermont	√		√	√	√	√	√	√	√				
Virginia													
Washington	√		√	√	√	√		√	√				
West Virginia													
Wisconsin	√		√	√	√	√	√	√					
Wyoming													
State Totals	13	11	8	13	12	12	9	13	11	3	7	3	3

KEG REGISTRATION

Keg registration allows tracking of beer kegs from the time of purchase to the time the empty keg is returned to the vendor. The purpose of these laws is to deter adults from providing keg beer to minors and to identify and punish those who do. The laws are also designed to protect distributors from being accused of selling kegs to underage consumers.

Keg registration laws require wholesalers or retailers to attach a tag, sticker, or engraving with an identification number to kegs exceeding a specified capacity. When the keg is purchased, the retailer records identifying information about the purchaser. A refundable deposit may also be collected, but very few states specify whether a deposit is required and, if required, the amount of the deposit. For those states that do specify, the information appears in the footnotes to the chart below.

The recent introduction of disposable kegs presents a complicating factor for keg registration laws. These containers cannot be tagged or traced easily because they are meant to be disposed of when empty. This new technology suggests that deposit provisions are particularly important as a disincentive against destroying the keg, which defeats the purpose of the law. The analysis below indicates whether a state has a keg registration law, how "keg" is defined for the purposes of the keg provision, the type of purchaser information a retailer is required to obtain (and keep on file for a specified time period), and the type of information to be placed on kegs.

Currently 22 states have keg registration provisions of the type analyzed in this document. The variables analyzed in the chart below are as follows:

- **Keg definition**—this variable describes the minimum number of gallons a keg must hold to require registration. It varies from 2 to 16 gallons. One state (Rhode Island) does not specify the number of gallons needed to constitute a keg.
- **Purchaser information**—all states that require keg registration require that the purchaser provide his or her name or signature on the registration form. Sixteen states require that the purchaser show some type of identification; eight states allow the use of a driver's license, and two allow the use of car registration information. In addition, four states require that the purchaser specify where the keg will be consumed.
- **Type of identification label**—in most states with keg registration, the ABC will either issue forms to be used to track purchasers or sales (10 states) or specify the forms to be used (13 states). In three states, the ABC department or agency must approve the form used by those who sell kegs.

Keg Registration

	Keg Registration Provision	Keg Definition: Minimum Number of Gallons	Purchaser Information				Type of Identification Label		
			Identifi- cation	Driver's License	Car Registration	Keg Consumption Location	Form Specified	ABC Issued	Approved by ABC
Alabama									
Alaska									
Arizona									
Arkansas									
California ¹	√	6	√	√			√	√	
Colorado									
Connecticut ¹	√	6			√		√		
Delaware									
District of Columbia	√	4	√			√		√	
Florida									
Georgia ¹	√	2	√	√		√	√		√
Hawaii									
Idaho	√	7.75					√	√	
Illinois									
Indiana	√	7.75					√		
Iowa									
Kansas	√	4	√	√				√	
Kentucky									
Louisiana									
Maine ²	√	7.75	√				√		√
Maryland	√	4	√				√	√	
Massachusetts ³	√	2	√				√	√	
Michigan									
Minnesota	√	7	√						
Mississippi									
Missouri									
Montana									
Nebraska	√	5	√	√			√		
Nevada									
New Hampshire	√	7	√	√			√		
New Jersey									
New Mexico	√	More than 6	√	√			√		
New York									
North Carolina									
North Dakota ⁴	√	6	√	√					

¹ In California, Connecticut, and Georgia, a deposit is required to obtain a keg, but the deposit amount is not specified.

² In Maine, a deposit of up to \$50 is required.

³ In Massachusetts, there are two types of fees required: (1) a container fee of not less than \$10.00 for each keg of six or more gallons and not less than \$1.00 for each container of less than six gallons; (2) a registration fee of \$10.00 for each keg of six or more gallons and \$4.00 for each keg of less than six gallons.

⁴ North Dakota is the only state that specifies the type of ink to be used on the keg label.

	Keg Registration Provision	Keg Definition: Minimum Number of Gallons	Purchaser Information				Type of Identification Label		
			Identification	Driver's License	Car Registration	Keg Consumption Location	Form Specified	ABC Issued	Approved by ABC
Ohio ⁵	√	5					√	√	
Oklahoma									
Oregon	√	7	√	√	√		√	√	
Pennsylvania									
Rhode Island	√								
South Carolina									
South Dakota ⁶	√	8 or 16							
Tennessee									
Texas									
Utah ⁷									
Vermont ⁸	√	5	√						√
Virginia	√	4	√			√		√	
Washington	√	4	√			√		√	
West Virginia									
Wisconsin									
Wyoming									
State Totals	22		16	8	2	4	13	10	3

⁵ In Ohio, keg registration is mandatory only if five or more kegs are being purchased.

⁶ South Dakota statute 35-1-11 defines a keg as "an eight or sixteen gallon reusable plastic or metal container."

⁷ In Utah, "a person may not sell, offer to sell, or otherwise furnish or supply beer to the general public in containers larger than two liters. This does not preclude licensed beer wholesalers from selling, offering to sell, or otherwise furnishing or supplying beer in containers larger than two liters to beer retailers authorized by this title to dispense beer on draft for consumption on the beer retailer's licensed premises." In addition, "a person may not purchase or possess beer in containers larger than two liters unless that person is a beer retailer authorized by this title to dispense beer on draft for consumption on the beer retailer's licensed premises."

⁸ In Vermont, a \$25 deposit is required.

FALSE AND MISLEADING ADVERTISING

Commercial speech is protected under the First Amendment of the U.S. Constitution, but there is no constitutional protection for false or misleading advertising. For example, any advertisement that targets underage persons for alcohol sales or consumption (the typology immediately following this one) can be interpreted as misleading because it invites an illegal transaction. Although legal interpretations of the terms "false", "misleading", and "targeting minors" are not well developed as they apply to alcohol advertising, a state with such a provision provides a basis for conducting investigations, establishing specific rules regarding ad content that is attractive to minors, and developing remedies to ensure that the ads will not be misleading.

In the typology below, we note the states with laws that expressly prohibit false and misleading advertising. All but two of these states (Maryland and Tennessee) cover all types of alcoholic beverages (distilled spirits, wine, and beer). We also list specific references to the type of advertising in which false and misleading claims are prohibited (newspapers and magazines, outdoor advertising, and electronic media). At present, 30 states have policies prohibiting false and misleading advertising.

False and Misleading Advertising

	False and Misleading Provision	Advertising Type			
		Newspapers and Magazines	Outdoor Advertising	Electronic Media	Not Specified
Alabama	√				√
Alaska					
Arizona					
Arkansas					
California					
Colorado					
Connecticut ¹	√				√
Delaware	√	√	√	√	
District of Columbia	√				√
Florida					
Georgia	√				√
Hawaii					
Idaho	√	√	√	√	
Illinois	√				√
Indiana					
Iowa					
Kansas	√				√
Kentucky	√				√
Louisiana					
Maine					
Maryland ²	√				√
Massachusetts	√				√
Michigan ¹	√				√
Minnesota	√				√
Mississippi ¹	√				√

¹ The relevant provisions for Connecticut, Michigan, and Mississippi are found outside the ABC code.

² In Maryland and Tennessee, the provisions apply only to distilled spirits and wine.

	False and Misleading Provision	Advertising Type			
		Newspapers and Magazines	Outdoor Advertising	Electronic Media	Not Specified
Missouri	√				√
Montana					
Nebraska	√				√
Nevada					
New Hampshire	√				√
New Jersey	√				√
New Mexico					
New York ³	√				√
North Carolina	√				√
North Dakota					
Ohio					
Oklahoma					
Oregon	√				√
Pennsylvania	√				√
Rhode Island					
South Carolina					
South Dakota					
Tennessee ²	√	√			
Texas	√	√	√	√	
Utah	√				√
Vermont	√	√	√	√	
Virginia	√				√
Washington ⁴	√		√		√
West Virginia ⁵	√			√	
Wisconsin					
Wyoming	√				√
State Totals	30	5	5	5	24

³ In New York, the provision applies only to package stores.

⁴ Washington has two provisions that relate to false and misleading advertising: one deals with outdoor advertising, and one does not specify the type of advertising.

⁵ Virginia does not allow radio or TV ads for alcoholic beverages. A Constitutional issue concerning content-based restrictions and First Amendment protections may be relevant here.

ADVERTISING THAT TARGETS MINORS

Legal provisions in many states prohibit ads of any type in which advertisers intend to target children, minors, or those under the legal drinking age, or encourage them, induce them, or make a special appeal to them to buy or consume alcoholic beverages. Targeting minors provisions can also prohibit advertising that uses images of children or models who are under the legal drinking age. We have focused on the specific wording of each statute because, although a state agency can pursue legal action against such ads through false or misleading provisions, enforcement is much easier when there is a specific provision against targeting minors. On the other hand, a provision that is poorly drafted will probably undermine a general false or misleading statute; a court is likely to conclude that the state legislature intended the targeting minors provisions to override (or serve as an interpretation of) a general false and misleading provision. For this reason, if a state has a targeting minors provision, it is important that the scope of the provision not be unduly restricted.

At present, 25 states have provisions of the type analyzed for this report. The variables in the chart below are defined as follows:

- **Reference**—this variable describes how the legal provision defines the audience that is not to be targeted. Nine states use the term “children” while six states refer to those “under the legal drinking age.” Fourteen states refer to “minors”, and in Kentucky and New Mexico the audience is not specified.
- **Placement**—nine states prohibit the placement of alcohol advertisements in school-related locations (this may include schools, universities, school buses, and yearbooks). Three states prohibit advertising near churches, and three states prohibit advertisements near playgrounds.
- **Symbols**—states may also restrict the use of symbols that can be depicted in advertisements. Six states prohibit the use of symbols of children; four states restrict symbols related to holidays such as Christmas or Easter; and five states prohibit the use of toys or other items that might appeal to children.
- **Wording**—seven states prohibit advertising that “induces” minors to drink; five states prohibit advertising that “encourages” minors to drink; and eight states prohibit advertising that “makes a special appeal” to minors. In some states, more than one of these phrases may be used to prohibit advertising that targets minors.

Advertising That Targets Minors

	Targets Minors	Reference			Placement			Symbols			Wording		
		Children	Under Legal Drinking Age	Minors	School Related	Churches	Play-grounds	Symbols of Children	Holidays	Toys	Induces	Encourages	Makes Special Appeal
Alabama	√			√									√
Alaska													
Arizona													
Arkansas													
California ¹	√			√						√		√	
Colorado													
Connecticut	√	√						√	√	√			
Delaware	√			√							√		
District of Columbia ²	√	√							√	√			√
Florida													
Georgia	√		√										
Hawaii													
Idaho													
Illinois	√	√											√
Indiana													
Iowa													
Kansas													
Kentucky ³	√												
Louisiana													
Maine	√			√							√		
Maryland													
Massachusetts													
Michigan ⁴	√			√									
Minnesota	√	√			√			√		√			√
Mississippi ⁵	√	√											
Missouri													
Montana													
Nebraska	√	√		√				√					
Nevada													
New Hampshire	√		√	√	√						√		
New Jersey	√	√		√				√			√		
New Mexico	√				√								
New York													
North	√		√		√						√		

¹ California includes language that prohibits "the use in any advertisement of alcoholic beverages of any subject matter, language, or slogan addressed to and intended to encourage minors to drink the alcoholic beverages."

² The District of Columbia prohibits "the use of any picture or illustration depicting a child or immature person...."

³ Kentucky has a general alcohol advertising provision that prohibits scenes of family or the home.

⁴ Michigan has a general alcohol advertising provision that prohibits any references to minors on alcohol cartoons or containers.

⁵ Mississippi has a provision that prohibits TV ads five minutes before or after a program that consists primarily of animated material intended for children.

	Targets Minors	Reference			Placement			Symbols			Wording		
		Children	Under Legal Drinking Age	Minors	School Related	Churches	Play- grounds	Symbols of Children	Holidays	Toys	Induces	Encou- rages	Makes Special Appeal
Carolina													
North Dakota													
Ohio	√	√			√	√	√	√	√				
Oklahoma													
Oregon	√			√								√	√
Pennsylvania	√		√	√	√	√	√						
Rhode Island													
South Carolina													
South Dakota													
Tennessee													
Texas													
Utah	√			√	√			√	√			√	√
Vermont	√		√									√	√
Virginia	√			√	√						√		
Washington	√	√	√	√	√	√	√			√			√
West Virginia	√			√							√	√	
Wisconsin													
Wyoming													
State Totals	25	9	6	14	9	3	3	6	4	5	7	5	8

HAPPY HOURS AND DRINK SPECIALS

Excessive drinking practices include happy hours, all-you-can-drink specials, unlimited quantities of alcohol for one low price (usually during specified hours), ladies' nights, two-for-one promotions, nickel pitchers, and other practices that encourage customers of bars and restaurants to drink large quantities of alcohol quickly thereby reducing the incentive to monitor consumption levels and drink responsibly. The consequences of this high-risk drinking include automobile crashes and fatalities, injuries, unplanned sexual activity, assault, rape, and property damage.

In this analysis, we focused on state statutes and regulations that specifically targeted happy hour types of promotions. At present, 27 states have such a provision. Although some states may have provisions that prohibit awarding alcohol as a prize or providing free beverages, in other parts of statutory or regulatory codes as a stand-alone statute or regulation, the information below focuses on states with provisions expressly prohibiting excessive drinking practices. Additionally, several states, such as New Hampshire, have separate provisions prohibiting advertising happy hours or happy hour-related activities, such as ladies' nights. We did not include these provisions in this analysis.

The variables found in the chart below are defined as follows:

- **Free beverages**—ten states have happy hour provisions that contain specific prohibitions against the distribution of free alcoholic beverages.
- **Additional servings**—16 states prohibit an establishment from providing additional servings of alcoholic beverages until previous servings have been consumed.
- **Reduced price – specified day or time**—18 states prohibit the sale of alcoholic beverages at reduced prices during a specified days or time.
- **Unlimited beverages – fixed price, fixed time**—23 states prohibit the sale of alcoholic beverages during a fixed period of time for a fixed price.
- **Increased volume**—12 states prohibit increasing the volume of alcoholic beverages in a drink without increasing the price.
- **Prizes**—15 states have happy hour provisions that contain specific prohibitions against giving alcoholic beverages as prizes.

Happy Hours and Drink Specials

	Happy Hours and/or Drink Specials	Free Beverages	Additional Servings	Reduced Price - Specified Day or Time	Unlimited Beverages - Fixed Price, Fixed Time	Increased Volume	Prizes
Alabama	√			√	√		
Alaska	√	√	√	√	√		√
Arizona	√		√		√		
Arkansas							
California							
Colorado							
Connecticut	√		√		√		√
Delaware	√			√	√		√
District of Columbia							
Florida							
Georgia							
Hawaii							
Idaho							
Illinois	√		√	√	√	√	√
Indiana	√		√	√			
Iowa							
Kansas	√	√		√	√	√	√
Kentucky							
Louisiana ¹	√				√		
Maine	√	√	√		√		√
Maryland							
Massachusetts	√	√	√	√	√	√	√
Michigan	√				√		√
Minnesota							
Mississippi							
Missouri							
Montana							
Nebraska	√				√		
Nevada							
New Hampshire							
New Jersey	√				√	√	√
New Mexico	√	√	√	√	√		√
New York	√	√			√		
North Carolina	√			√	√		
North Dakota							
Ohio	√		√	√	√	√	√
Oklahoma	√		√	√	√	√	√
Oregon ²							
Pennsylvania	√		√	√	√	√	
Rhode Island	√	√	√	√	√	√	√

¹ In Louisiana, selling or serving alcoholic beverages at a fixed price after 10 p.m. is prohibited.

² Although Oregon has no happy hour statute per se, it does have a provision that prohibits providing alcohol as prizes.

	Happy Hours and/or Drink Specials	Free Beverages	Additional Servings	Reduced Price - Specified Day or Time	Unlimited Beverages - Fixed Price, Fixed Time	Increased Volume	Prizes
South Carolina	√	√		√			
South Dakota							
Tennessee	√	√	√	√	√	√	√
Texas	√		√	√	√	√	
Utah							
Vermont	√		√			√	
Virginia	√	√	√	√	√	√	√
Washington	√			√			
West Virginia							
Wisconsin							
Wyoming							
State Totals	27	10	16	18	23	12	15

Conclusion

The analyses of these policies relating to key provisions of alcohol beverage control laws reveal that there are considerable discrepancies in the ways in which states regulate the sale and consumption of alcohol in the United States. Key findings produced by the study include:

- Four states prohibit the purchase of alcohol by a minor only if the minor makes a false statement or representation of age in order to purchase the alcohol.
- Ten states allow minors to possess alcohol in any private location, including any private residence or venue.
- Three states do not prohibit the furnishing of alcohol to intoxicated individuals.
- Thirteen states require some type of mandatory Responsible Beverage Service (RBS), and 11 states provide incentives for retailers to participate. Three of the states with voluntary programs provide protection against license revocation for sales to minors or intoxicated persons if the licensee has participated in RBS training.
- Twenty-two states have passed keg registration laws, but the requirements vary widely from the definition of what constitutes a keg to the type of purchaser information required.
- Twenty-five states prohibit alcohol advertising that target minors.

Our analysis highlights the importance of understanding state laws that address underage consumption and drinking to intoxication. The presence or absence of a law may have a significant effect on the rate of alcohol-related problems in a state, particularly alcohol-related motor vehicle crashes. A law's wording, or the inclusion of an exception, may undercut the ability of law enforcement officials, regulatory agencies, and the courts to enforce it, thereby negating the law's intended effect. Research is needed to assess the impact of these laws and the variations across jurisdictions. When researchers engage in this work, it is important that they note the variations and loopholes in provisions to ensure accurate interpretation of results.

Our report provides a first, important step in assessing these state laws. There are several limitations that have already been noted. Most important, we do not include any analysis of local legislation, and we have not researched case law interpretations. These critical aspects of a comprehensive legal analysis are more appropriately accomplished on a state-by-state basis. Our goal is to provide an overview and introduction to the subject that can serve as an important starting point for researchers, policymakers, public health and law enforcement officials, and community organizations across the country.

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FOR IMMEDIATE RELEASE

Nationwide Strategy to Combat Underage Drinking Requires Shared Responsibility; Action Also Needed to Improve Compliance With Laws

WASHINGTON -- More young people drink alcohol than use other drugs or smoke tobacco, and underage drinking costs the nation an estimated \$53 billion annually in losses stemming from traffic fatalities, violent crime, and other behaviors that threaten the well-being of America's youth. Curbing underage drinking is an uphill battle because alcohol is legal and readily available to adults. To tackle the problem, a new report from the National Research Council and Institute of Medicine of the National Academies offers a comprehensive strategy

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that requires a deep, shared commitment from many institutions and individuals, including alcohol manufacturers and retail businesses, the entertainment industry, and parents and other adults in local communities.

Federal and state governments should help forge the commitment to curtail alcohol consumption by minors, the report adds. For example, the federal government should do more to educate adults about existing laws and the consequences of underage drinking. Federal and state governments also should provide additional financial assistance and other support to reinforce community-based initiatives, and to research the effectiveness of the proposed strategy itself and related policies.

"All segments of U.S. society should address underage drinking in a serious, coordinated, and sustained manner," said Richard J. Bonnie, John S. Battle Professor of Law and director of the Institute of Law, Psychiatry, and Public Policy at the University of Virginia, Charlottesville, and chair of the committee that wrote the report. "We have to find effective ways to protect our nation's youth while we respect the interests of responsible adult consumers of alcohol. The recommendations in this report attempt to strike the right balance." The congressionally mandated study lays out a strategy that includes heightened adult supervision of children's behavior and calls upon the alcohol and entertainment industries to take stronger steps to shield young people from unsuitable messages about alcohol consumption. Taken as a whole, the plan would have a considerable impact, the committee said, adding that the strategy should be subject to ongoing refinement.

To fund the proposed activities and to help reduce underage consumption, Congress and state legislatures should raise excise tax rates on alcohol – particularly on beer, which studies show is the alcoholic beverage that most young people prefer. Alcohol is much cheaper today, after adjusting for inflation, than it was 30 to 40 years ago. Higher tax rates should be tied to the Consumer Price Index to keep pace with inflation. Increasing the cost of alcohol has well-documented deterrent effects on underage drinkers, the report points out.

A National Wake-Up Call

Most adults express concern about underage drinking and voice support for public policies to

curb it. Yet surveys show that youth often obtain alcohol from adults. Studies also show that many parents underestimate both the extent of the problem and their own children's alcohol-consumption habits.

States and localities should use a wide range of educational and enforcement measures to boost compliance with laws that prohibit selling or providing alcohol to children, adolescents, and young adults under the legal drinking age of 21. The aim is to deter adults and youths alike, the report says. Among the recommended steps are increasing the frequency of compliance checks, in which authorities monitor whether businesses are obeying minimum-drinking-age laws and levy fines when necessary, and requiring all sellers and servers of alcohol to complete state-approved training as a condition of employment. Likewise, the federal government should require states to achieve specified rates of retailer compliance with youth-access laws as a condition of receiving federal funds. And states should enhance efforts to prevent and detect the use of false identification by minors who want to purchase alcohol – for example, by issuing driver's licenses and state ID cards that can be electronically scanned.

In addition, states that allow Internet sales and home delivery of alcohol should adopt regulations that require customers to sign statements verifying their identity and age at the time of delivery. At the local level, police, working with community leaders, should create policies for detecting and shutting down underage drinking parties, the report says.

State and local leaders should develop efforts to reduce underage drinking that are tailored to specific circumstances of the problem in their communities, the report says. A broad range of public and private organizations and institutions, including the federal government, should encourage and fund community efforts that have a solid science base.

Likewise, the federal government should fund and actively support the development of a national media campaign to encourage parents and other adults to take steps in their own households and neighborhoods to discourage underage drinking. Officials should carefully craft this activity to make sure that it would reach a diverse audience, the report says.

All intervention and education programs, the committee stressed, should be rigorously

evaluated.

Roles for Alcohol and Entertainment Industries

A substantial portion of alcohol advertising reaches an underage audience or is presented in a style that is attractive to youth, the report says. For example, television ads for alcohol often appear during programs where the percentage of underage viewers is greater than their percentage in the overall U.S. population.

The committee recommended that trade associations in the alcohol industry and individual companies strengthen their advertising codes to prohibit placement of commercial messages in venues where a large portion of the audience is underage. These groups also should establish independent, external review boards to investigate complaints about ads and enforce codes. In 1999 the Federal Trade Commission issued similar recommendations urging the industry to toughen its advertising standards for alcoholic beverages. For years, those standards have permitted ad placement in media where adults constitute at least 50 percent of the audience. The industry is expected to soon announce tougher standards that will restrict marketing to audiences with a much larger proportion of adults.

In addition, alcohol companies, advertising firms, and commercial media should refrain from marketing practices -- such as certain product designs or promotion techniques -- that may appeal to young people, the report says.

The alcohol industry also should join with private and public entities to create and fund an independent, nonprofit foundation that is focused solely on preventing and reducing underage drinking, the committee said. The industry currently invests in programs that were established with that stated goal; however, the results of these programs typically are not assessed using rigorous scientific methods.

The entertainment media have key roles to play, too. Officials in the music, television, and film industries should use rating systems and codes to reduce the likelihood that large numbers of young listeners and viewers will be exposed to unsuitable messages about alcohol consumption -- even when adults are expected to make up the majority of the audience. The

Motion Picture Association of America, for instance, should consider content about alcohol use when rating films, and assign mature ratings for movies that portray drinking in a favorable light, the report says.

The overall goal of the committee's broad strategy is to promote public awareness of the importance of reducing underage drinking, as well as greater accountability in mass communication. To this end, Congress should provide funding for the U.S. Department of Health and Human Services to routinely track youth exposure to alcohol ads by monitoring advertising practices. Likewise, HHS should regularly review representative samples of movies, TV programs, music recordings, and videos offered to audiences that are 15 percent or more underage. Findings from this work should be reported to Congress and the public, the committee said. Moreover, HHS should issue a comprehensive report to Congress each year on trends in underage drinking and progress in reducing the problem.

Larger Government Investments Needed

The use of alcohol among adults is deeply rooted in American culture, and beliefs vary widely about alcohol consumption and expectations for young people. But underage drinking is dangerous, the report emphasizes. It is a significant factor in youth traffic fatalities, and associated with suicide, other violence, and academic failure. When people start drinking in childhood or adolescence, they increase their risk of developing alcohol-related problems as adults.

In the 2002 Monitoring the Future survey, a federally sponsored study, about 72 percent of 12th graders and 39 percent of eighth graders reported that they had consumed some alcohol in the past year. That study also showed that more than a quarter of high school seniors had consumed five or more drinks in a row in the previous two weeks.

Federal and state excise taxes are potentially important tools for preventing and reducing underage drinking and its harmful consequences, the committee concluded. Extensive research indicates that even small changes in these tax rates can decrease the prevalence of drinking among youths, who tend to have limited discretionary income. Current federal excise tax rates of \$2.14 per 750-ml. bottle of 80-proof spirits, 33 cents per six pack of beer, and 21

cents per bottle of wine represent a long downward slide in the value of these taxes. Further, the federal government needs to enhance and better organize research in this area, the report says. A federal, interagency coordinating committee should be formed, with the secretary of HHS serving as chair, to provide national leadership on the topic. HHS should create a National Training and Research Center on Underage Drinking, and collect more detailed data on the problem -- gathering information on regional trends and on brands of alcohol that are popular among young people, for instance. HHS also should issue annual reports on progress in implementing the proposed strategy.

State policy-makers should designate an agency to spearhead and coordinate their activities and programs in this area, the report says. Also, residential colleges and universities, which face serious alcohol-related problems among students under 21, should develop, adopt, and evaluate comprehensive prevention approaches in partnership with local communities.

The report was sponsored by the U.S. Department of Health and Human Services. The National Research Council and the Institute of Medicine are private, nonprofit institutions that provide science and health policy advice under a congressional charter. The Research Council is the principal operating arm of the National Academy of Sciences and the National Academy of Engineering. A committee roster follows.

Pre-publication copies of **Reducing Underage Drinking: A Collective Responsibility** are available from the National Academies Press; tel. 202-334-3313 or 1-800-624-6242 or on the Internet at <http://www.nap.edu>. The cost of the report is \$50.00 (prepaid) plus shipping charges of \$4.50 for the first copy and \$.95 for each additional copy. Reporters may obtain a copy from the Office of News and Public Information (contacts listed above).

NATIONAL RESEARCH COUNCIL
and
Institute of Medicine
Board on Children, Youth, and Families

Committee on Developing a Strategy to Reduce and Prevent Underage Drinking

This document was supported by the Office of Juvenile Justice and Delinquency Prevention, in conjunction with its Enforcing Underage Drinking Laws program. The opinions in this document do not necessarily reflect the official position of the US Department of Justice.

Using Alcohol Policy to Reduce Underage Drinking: Strategies that Work

The Underage Drinking Enforcement Center
Pacific Institute for Research and Evaluation
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To a large extent, community environments determine whether and how much young people drink.¹ This environment consists of the community's alcohol-related norms and regulations and the availability of alcohol to young people (see figure). Policymakers and concerned citizens can help to shape their community environment to support healthy choices about alcohol use.

Controlling Alcohol Availability to Young People

There is no better established principle in prevention than this: If a community makes it more difficult for young people to obtain alcohol, underage drinking is reduced. In addition, because younger drinkers obtain alcohol from older people (friends, siblings, parents, and other adults), reducing the *overall* availability of alcohol in a community will reduce alcohol problems among young people.

- *Enforcement of laws against underage drinking* – Underage drinking laws are among our most important tools to reduce underage drinking, and the better the enforcement, the better the results. Enforcement efforts are most efficient and effective when they focus on adults (retailers, parents, older friends) who provide alcohol to underage drinkers. Nevertheless, enforcement aimed at young people themselves can send a message about community norms and may deter them from attempting to buy alcohol.
- *Reducing overall availability* – Reducing the overall availability of alcohol makes alcohol

less convenient for young people to obtain. It also sends a message to young people that alcohol does not have to be the central feature of social life. One important way to reduce the overall availability is to reduce the number of alcohol outlets relative to community size and population. Communities can also prohibit alcohol outlets in areas that are frequented by young people, for example, near schools. Finally, communities can restrict alcohol availability at public events, such as fairs and festivals or in other public places, such as beaches and parks.

Controlling the Ways in Which Alcohol Is Advertised and Promoted

Alcohol advertising and promotions are highly visible features of most community landscapes. The message often conveyed to young people is that drinking is expected, acceptable, and desirable. States and communities can reduce these messages through a variety of strategies:

- Controlling the location and content of outdoor advertising
- Prohibiting the distribution or sale to minors of alcohol promotional material (e.g., T-shirts).
- Restricting or eliminating alcohol industry sponsorship of local community events.

¹ *Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices*, Washington, D.C.: OJJDP, USDOJ. Presented at OJJDP National Leadership Conference, 7/11-14/99.

- Community environments can exert powerful controls on drinking among young people
- If a community makes it more difficult for young people to obtain alcohol, underage drinking is reduced
- Alcohol advertising and promotions too often communicate to young people that drinking is expected, acceptable, and desirable

The National Highway Traffic Safety Administration, under the Department of Transportation, provides a number of resources for the prevention of underage drinking, including the Community How To Guides On Underage Drinking Prevention. NHTSA also funds the National Association of Governors' Highway Safety Representatives' Underage Drinking Prevention Project (UDPP). The UDPP uses a comprehensive, community-based approach to address the issue of underage drinking.

The Effects of Lowered Legal Blood Alcohol Limits for Young Drivers

Alexander Wagenaar, Ph.D.*, Patrick O'Malley, Ph.D.**, and Colette

be detected.

Tapert, S., Brown, G., Kinderman, S., Cheung, E., Frank, L., and Brown., S. fMRI measurement of brain dysfunction in alcohol-dependent young women. *Alcoholism: Clinical and Experimental Research*, 25(2):236-245, 2001.

¹ See *Science, Kids, And Alcohol - Heavy Alcohol Use and Nervous System Development*.

- Evidence is increasing that alcohol-dependent young people experience deficits in cognitive functioning
- Functional magnetic resonance imaging (fMRI) revealed changes in brain functioning that may underlies these deficits
- Heavy drinking patterns leading to withdrawal pose particular threats to brain functioning in young women.

This document was supported by the Office of Juvenile Justice and Delinquency Prevention, in conjunction with its Enforcing Underage Drinking Laws program. The opinions in this document do not necessarily reflect the official position of the US Department of Justice.

Enforcement of Underage Drinking Laws: Strategies that Work

The Underage Drinking Enforcement Center

Pacific Institute for Research and Evaluation

Calverton, Maryland

Laws establishing 21 as the minimum purchase age for alcohol (adopted in all states by 1988) have been shown to be extremely effective in reducing underage alcohol consumption and its consequences¹. According to the National Highway Traffic Safety Administration, the 21-year-old purchase age has saved more than 19,000 young lives through reductions in alcohol-related traffic crashes. There have also been reductions in injuries, homicides, suicides, and other alcohol-related problems.^{2,3}

Despite the effectiveness of 21-year-old purchase age laws, more vigorous enforcement would further reduce underage drinking and save even more young lives. Evaluations have shown repeatedly that when the following techniques are applied, rates of sales to minors drop dramatically:

Enforcement aimed at retailers

Because there are many fewer sellers of alcohol than there are purchasers, strategies aimed at retailers are efficient. They are also very successful in reducing sales of alcohol to minors.⁴

Enforcement aimed at retailers includes the following key elements:

- Vigorous use of compliance checks
- Applying appropriate sanctions to merchants who sell to underage individuals
- Educating merchants regarding their responsibilities under the law
- Developing media coverage and community support for enforcement.

Enforcement aimed at other sources of alcohol

Young people obtain alcohol from many sources, including older friends and siblings, adults who agree to buy for them, and even parents. Some strategies for reducing these sources of alcohol include:

- Enacting keg registration laws that make the purchasers of kegs of beer responsible if minors are served from those kegs.
- Enforcing laws that prohibit buying alcohol for minors and citing adults who purchase for them
- Holding adults responsible if alcohol is served to minors in their homes
- Conducting enforcement campaigns to prevent or safely disperse parties where minors are drinking.

Enforcement aimed at young people

Little research is available demonstrating the effectiveness of enforcement aimed at young people. However, enforcement programs, such as "Cops in Shops," send a message about community norms and may deter young people from attempting to buy alcohol. Such youth only-approaches should be used in combination with other proven strategies.

⁴ O'Malley, P., and Wagenaar, A. Effects of minimum drinking age laws on alcohol use, related behaviors, and traffic crash involvement among American youth 1976-1987. *Journal of Studies on Alcohol*, 4:807-818, 1991

⁵ Jones, N.; Pieper, C.; and Robertson, L. The effect of legal drinking age on fatal injuries of adolescents and young adults. *American Journal of Public Health* 82:112-115, 1992.

⁶ Parker, M., and Rebhun, L. *Alcohol and Homicide: A Deadly combination of Two American Traditions*. Albany, NY: State University of New York Press, 1995.