

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 12560

1 (a) Notwithstanding another provision of law, with the consent of the state
2 and the defendant, the court may elect to proceed in a criminal case under
3 AS 04.16.200(b) or (e), AS 28.35.030, or 28.35.032, including the case of a
4 defendant charged with violating the terms of probation, under the procedure
5 provided in this section and order the defendant to complete a court-ordered
6 treatment program. The state may not consent to a referral under this subsection
7 unless the state has consulted with the victim and explained the process and
8 consequences of the referral to the victim. A court may not elect to proceed under
9 this section if the defendant has previously participated in a court-ordered treatment
10 program under this section two or more times.

11 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 APPLICABILITY. (a) Section 1 of this Act applies to offenses committed on or after
14 the effective date of this Act.

15 (b) Section 2 of this Act applies to convictions occurring before, on, or after the
16 effective date of this Act.

17 (c) Section 3 of this Act applies to offenses committed on or after the effective date
18 of this Act.

19 (d) Sections 4 and 5 of this Act apply to offenses committed on or after the effective
20 date of this Act. Any references in those sections to previous convictions include previous
21 convictions occurring before, on, or after the effective date of this Act.

22 (e) Sections 6 and 7 of this Act apply to actions taken by a court on or after the
23 effective date of this Act, regardless of whether the offense occurred before, on, or after the
24 effective date of this Act.

25 * Sec. 9. This Act takes effect July 1, 2008.

STATE OF ALASKA

**SARAH PALIN,
GOVERNOR**

**DEPARTMENT OF LAW
CRIMINAL DIVISION**

Mailing: PO Box 110300
Juneau, AK 99811-0300
Delivery: 123 4th Street, Ste 717
Juneau, AK 99801
Phone: (907) 485-3428
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February 14, 2008

Senator Hollis French
Chair, Senate Judiciary Committee
Alaska State Capitol, Room 417
Juneau, Alaska 99801

Re: CSSB 235 (CRA)
An Act relating to shipping, sending transporting, or bringing alcohol to
a local option area, etc.

Dear Senator French:

I am writing to respectfully request that you schedule the referenced bill for hearing in the Senate Judiciary Committee at your earliest convenience. The bill builds on the recent alcohol enforcement efforts made by the legislature by adopting mandatory minimum terms for bootleggers that are similar to those for drunk drivers and persons who refuse a breath test. It would prohibit shipping alcohol to a local option area in plastic bottles, and would adopt a class C felony for the third conviction of bootlegging in a 10 year period. CSSB 235(CRA) would also make bootleggers eligible for therapeutic court.

A sectional analysis is attached that describes each provision of the bill.

Thank you for your consideration of this request.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: *Richard A. Svobodny*
Richard A. Svobodny
Deputy Attorney General

CC: Talis Colberg, Attorney General

STATE OF ALASKA

DEPARTMENT OF LAW CRIMINAL DIVISION

**SARAH PALIN,
GOVERNOR**

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January 17, 2008

Senator Hollis French
Chair, Senate Judiciary Committee
Alaska State Capitol, Room 417
Juneau, Alaska 99801

**Re: Governor's alcohol legislation
An Act relating to shipping, sending, transporting, or bringing alcohol to a
local option area, etc.**

Dear Senator French:

I am writing to respectfully request that you schedule the referenced bill for hearing in the Senate Judiciary Committee at your earliest convenience. The bill builds on the recent alcohol enforcement efforts made by the legislature by adopting mandatory minimum terms for bootleggers that are similar to those for drunk drivers and persons who refuse a breath test. It would also prohibit shipping alcohol to a local option area in plastic bottles, and would adopt mandatory civil penalties for alcohol licensees whose agents or employees are convicted of furnishing alcohol to minors.

A sectional analysis is attached that describes each provision of the bill.

Thank you for your consideration of this request.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By:


Richard A. Svobodny
Deputy Attorney General

CC: Talis Colberg, Attorney General

GOVERNOR'S ALCOHOL LEGISLATION SECTIONAL ANALYSIS

Section 1 would prohibit a licensee from shipping alcohol in plastic containers to a resident who lives in a local option community, unless the shipment is to a community distribution center. According to law enforcement, detection of illegal alcohol shipments in plastic is much more difficult, because it weighs less and is much quieter in plastic than it would be in glass containers.

Sections 2, 3, 4, and 5 address the serious problem of minors consuming alcohol in Alaska, by requiring the Alcoholic Beverage Control (ABC) Board to levy fines and, for a second or subsequent offense in a five year period, suspend licenses if a bartender or clerk is convicted of furnishing alcohol to a minor on the licensed premises of the licensee. Under current law, there are no consequences for a licensee if the licensee's clerk or bartender is convicted of serving or selling alcohol to a minor. This provision, similar to a provision in tobacco enforcement, would encourage licensees to ensure that their employees are trained and able to avoid furnishing alcohol to minors.

Section 6 would make a third conviction for bringing smaller amounts of alcohol to a local option community, in violation of the local option, a class C felony if the conviction is the third bootlegging conviction in a 10 year period. Under current law it is a class C felony to bring large amounts of alcohol to a community in violation of a local option. This provision would make it a similar felony for bringing smaller amounts if the person has two convictions in the prior 10 years.

Section 7 would adopt mandatory minimum sentences for bootleggers that are similar to the mandatory minimum sentences for drunk driving and refusal to submit to a breath test. The sentences would apply both to misdemeanor and felony bootlegging convictions. The look-back period for the prior convictions in the bill is a 10 year period, rather than the 15 year look-back for drunk driving and refusal.

Sections 8 and 9 amend the manslaughter statute so that it would prohibit causing the death of a person, if the death was a direct result of ingestion of alcohol that the defendant brought the alcohol into a community in violation of a local option. This is similar to a law adopted two years ago addressing the illegal manufacture or delivery of methamphetamines that cause the death of another person.

Section 10 clarifies that the court system should provide information about minors convicted of minor consuming alcohol to the Division of Motor Vehicles. This transfer of information is then available to law enforcement, so that a peace officer knows if the minor he or she is confronting has prior incidents of minor consuming.

Section 11 allows a person charged with bootlegging to be eligible for consideration of referral to therapeutic court.

Sections 12 and 13 include applicability and effective date sections.

STATE OF ALASKA

DEPARTMENT OF LAW CRIMINAL DIVISION

**SARAH PALIN,
GOVERNOR**

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March 5, 2008

Representative Nancy Dahlstrom
Alaska House of Representatives
Alaska State Capitol, Room 409
Juneau, Alaska 99801

Re: HB 327

Dear Representative Dahlstrom:

Yesterday at the work session addressing HB 327 the question arose whether Section 8 of the bill, which would expand the crime of manslaughter to a person who sends alcohol in violation of AS 04.11.010 to a local option area if the alcohol is the direct cause of the death of another person, would apply to a clerk in a liquor store who mistakenly sends alcohol to a person in violation of a local option. I said that I thought the answer was no. That answer is correct if the question is about a clerk who makes an honest mistake. It is not correct if the question addresses a clerk in a liquor store who knowingly sends alcohol to a dry or damp community in violation of the local option.

Jerry Luckhaupt, in response to the same question, concluded that Section 8 might apply to a licensee or clerk, but only if the licensee or clerk is "performing activities that they are not licensed to perform." Memo from Mr. Luckhaupt to Rep. Dahlstrom, March 4, 2008.

For Section 8 to apply to a clerk, the prosecution would have to prove beyond a reasonable doubt not only that the clerk sent alcohol illegally and outside the scope of the license he or she is operating under, but also that the clerk acted *knowingly* in regard to the local option. You would also have to prove by the same standard that a person died as a direct result of ingesting the alcohol that was illegally sent by the clerk.

Thank you for the opportunity to respond to this issue. Please contact me if you have any further questions.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By:



Anne D. Carpeneti
Assistant Attorney General

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveres to: 129 6th St., Rm. 329

MEMORANDUM

March 4, 2008

SUBJECT: Section 8: Manslaughter for Death resulting from violations of AS 04.11.010 (HB 327, Work Order No. 25-GH2035A)

TO: Representative Nancy Dahlstrom
Attn: Jennifer Baxter

FROM: Gerald P. Luckhaupt 
Legislative Counsel

You have asked if bill sec. 8 of HB 327 would apply only to persons not licensed under AS 04.11 or would persons licensed under AS 04.11¹ also potentially be subject to prosecution for manslaughter under that section. It is my opinion that persons who are licensed under AS 04.11, and their agents and employees, could also be subject to prosecution for manslaughter under bill sec. 8.

Bill sec. 8 amends AS 11.41.120(a), manslaughter, by providing that a person who violates AS 04.11.010 in an area that has adopted a local option under AS 04.11.491 and as a result a person dies after ingestion of the alcohol that is brought into the local option area.² AS 04.11.010(a) provides that:

a person may not knowingly manufacture, sell, offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage unless under license or permit issued under this title.

For the most part, this subsection would seem to apply to unlicensed persons but it also prohibits licensed persons from performing activities that they are not licensed to perform.³ AS 04.11.010(b) provides that:

¹ And employees and agents of those licensees.

² This section mirrors the language the legislature has previously employed to impose liability for manslaughter on illegal manufacturers and dealers in certain controlled substances. AS 11.41.120(a)(3).

³ For example, a person with a license to manufacture may not sell or barter unless the license to manufacture also allows to person to sell or barter.

Representative Nancy Dahlstrom

March 4, 2008

Page 2

a person may not solicit or receive orders for the delivery of an alcoholic beverage in an area that has adopted a local option under AS 04.11.491. If the area has adopted a local option under AS 04.11.491(a)(1), (2), or (3), or (b)(1) or (2), a package store licensee outside of that local option area may receive orders as provided under AS 04.11.150 but may not solicit in that area or receive orders through an agent or employee in that area. This subsection does not apply to a package store licensee who operates a package store in an area that has adopted a local option under AS 04.11.491(a)(2)(C) or (3)(C) or (b)(2)(C). A person who violates this subsection is punishable upon conviction as provided under AS 04.16.200(a) or (b).

This subsection applies directly to licensees and their agents and employees. A licensee, for example a package store in Anchorage, may not solicit or receive orders from a community that has a local option under AS 04.11.491(a)(4) - (5) or (b)(3) - (4) and may receive orders under AS 04.11.150⁴ if the local option is under AS 04.11.491(a)(1) - (3) or (b)(1) or (2). A licensee that violates AS 04.11.010(b) and solicits and receives an order from a community with a local option that bans the sale, importation, and possession of alcohol could possibly be subject to prosecution under bill sec. 8 if the person from whom they solicited or accepted the order subsequently transports the alcohol back to the community and someone dies after ingestion of the alcohol.

GPL:med
08-149.med

⁴ But may not solicit.



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February 5, 2008

Testimony of Loretta Bullard, President of Kawerak on Senate Bill 235

Good afternoon. My name is Loretta Bullard. I am President of Kawerak, the regional non-profit that provides services throughout the Bering Strait Region of Alaska. I also serve as a member of the Alaska Rural Justice & Law Enforcement Commission. This Commission was formed by Congress in 2004 to develop recommendations to improve rural law enforcement and justice in Alaska for consideration by the Alaska Legislature, the State administration and Congress. I also serve on the Regional Wellness Forum in the Bering Straits Region. This is a coalition of agencies and non-profit service providers that meet quarterly. The purpose of the Regional Wellness Forum is to communicate, coordinate and collaborate as we seek to reinstate a culture of wellness in the Bering Straits Region – to the benefit of our children, families and future generations. Thank you for this opportunity to present testimony on Senate Bill 235.

I would like to testify in support of several provisions in Senate Bill 235, the first of which was a direct recommendation from the Alaska Rural Justice and Law Enforcement Commission:

I encourage the committee to support the proposed language in section 1 which prohibits the shipment of alcohol in plastic containers to residents of local option communities, unless the alcohol is to a community delivery site.

The Regional Wellness Forum supports Sections 2,3,4 and 5 of the draft bill which would require the ABC Board to levy fines (for an initial offense) and for second or subsequent offenses in a five year period, to suspend licenses if a bartender, (**add: waiter or waitress**) or clerk is convicted of furnishing alcohol to a minor on the licensed premises of the licensee. I encourage the committee to also add language which provides penalties for the individual bartender, clerk or waiter/waitress, since. (as was discussed in our last Regional Wellness Forum meeting) a disgruntled bartender, waiter or clerk, could easily provide liquor to a minor as a punitive measure against their employer.

Personally, I do not support Sections 6 and 7. I encourage the Alaska Legislature to make additional funds available so that those individuals with alcohol and drug addictions, can receive the treatment and support they need to become and stay sober. The Anvil Mountain Correctional Center here in Nome is full of individuals who need alcohol treatment – they do not receive it – and the cycle of addiction and lawlessness continues in our villages.

Just a comment on Section 8 - I do not feel I can testify either in support or opposition of the proposed language. It appears to be singling out importers of alcohol for manslaughter charges when someone dies from drinking in a dry village. Yet, here in Nome, and other wet communities, people die all the time from acute alcohol poisoning, driving under the influence, alcohol fueled homicides and accidents and yet the purveyors alcohol are not held accountable.

Thank you for this opportunity to testify.

Ubellor

**Golden Port Enterprises Incorporated
Dba Gold Star Liquor
1855 Van Horn Road
Fairbanks, Alaska 99701
907-456-6996
1-800-478-6996
Fax 907-452-3812**

Senator Hollis French
State Capitol, Room 417
Juneau, AK 99801-1182

Dear Senator French:

I am writing to you today to express my viewpoint in regards to SB 235. While I perceive much of the legislation to be sound, I have some concerns relating to Section 1 of this bill.

Section 1 would amend AS 04.11.150 to include:

(h) A package store licensee, agent, or employee may not

(3) ship alcohol in a plastic container to a person who resides in a municipality or established village that has adopted a local option under AS 04.11.491(a) (1), (2), or (3) or (b) (1) or (2), unless the shipment is to a community deliver site designated under AS 04.11.491(f).

It is my opinion that this legislation would benefit the bootleggers while punishing the legal importers and negatively impacting the compliant package stores.

Much of the product we provide to legal importer in rural Alaska is not available in a glass bottle, forcing individuals to pay extra for more expensive brands, while also increasing the cost of freight and risking breakage. Additional cost and further restriction of legal importation will only encourage illegal activity. Bootlegging is a thriving industry that relies on the basic economic law of supply and demand. This principle itself results in the monetary incentive individuals have to illegally import alcohol into a dry/damp community. To reduce the supply will only raise the price paid for the product while putting more cash and resources into the hands of the suppliers. A more reasonable solution would be to work toward reducing the demand in the communities while encouraging the legal, regulated importation of alcohol.

The basic intention of this plastic bottle prohibition is to make shipments of alcohol more obvious in regards to weight and the auditory "clue" of glass bottles clanking together. I find it hard to imagine that any bootlegger would abide by this glass bottle requirement while illegally transporting alcohol. (Not to mention, anyone in their right mind would thoroughly pad any package containing glass to prevent breakage) Bootleggers may even be encouraged by the premise that the authorities are primarily looking for glass bottles, making plastic bottles easier to smuggle.

Every legal shipment of alcoholic beverages in the state of Alaska is already required to clearly label the package as such, dismissing the need for further evidence of its contents.

It is my opinion that the proposed legislation is a frivolous regulation that would undoubtedly impact law-abiding citizens and licensed businesses negatively, while providing more incentive and perhaps even further enabling the illegal transportation of alcohol into rural Alaska.

Thank you for your attention,



Michael Gaddis
President/Owner
Golden Port Enterprises Incorporated
Dba Gold Star Liquor

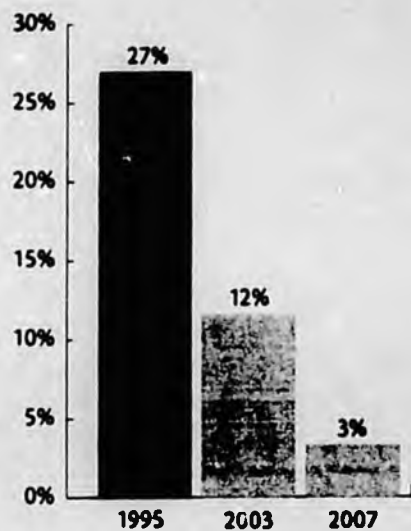
Comparison of Alcohol & Tobacco Penalties

Clerks	Tobacco	Current Alcohol	Proposed Alcohol
1 st Offense	Violation – minimum \$300 fine	Class A misdemeanor – up to 1 year jail time and up to \$10,000 fine	Class A misdemeanor – up to 1 year jail time and up to \$10,000 fine
2 nd & Subsequent Offense	Violation – minimum \$300 fine	If previously convicted within 5 years, Class C felony – up to 5 years in jail time and up to \$50,000 fine	If previously convicted within 5 years, Class C felony – up to 5 years in jail time and up to \$50,000 fine

Licensee/Business Owner	Tobacco	Current Alcohol	Proposed Alcohol
1 st Offense	** Tobacco endorsement suspension of 20 days, and civil fine of \$300	Notice of Violation, only if the owner makes the sale; license suspension no more than 45 days at the discretion of the ABC Board	Civil fine of \$500
2 nd Offense	** If previously convicted within 2 years, then tobacco endorsement suspension of 45 days, and civil fine of \$500	Notice of Violation, only if the owner makes the sale; license suspension no more than 90 days at the discretion of the ABC Board, if previously convicted within 5 years,	If previously convicted within 5 years, then license suspension of 7 days, and civil fine of \$1,000
3 rd Offense	If previously convicted within 2 years, then tobacco endorsement suspension of 90 days, and civil fine of \$1,000	Notice of Violation, only if the owner makes the sale; license suspension or revocation at the discretion of the ABC Board, if previously convicted within 5 years,	If previously convicted within 5 years, then license suspension of 30 days, and civil fine of \$2,000
4 th Offense	If previously convicted within 2 years, then tobacco endorsement suspension of 1 year, and civil fine of \$2,500	N/A	N/A

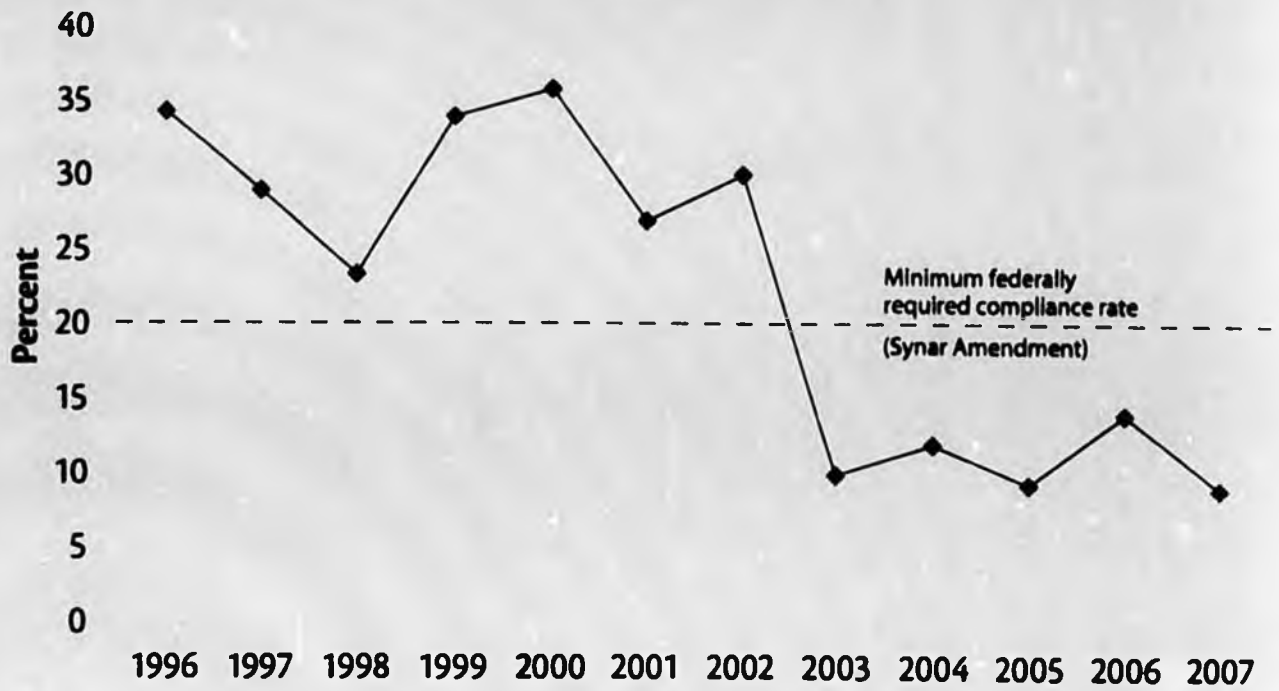
** Note: Based on the results of the administrative hearing, the tobacco endorsement suspension can be reduced or increased by 10 days on the 1st offense and 20 days for the second offense.

**Alaska High School Youth
Bought Own Cigarettes,
1995 vs. 2003 (Past 30 Days)**



Source: Alaska YRBS 1995, 2003, 2007.

**Percentage of Alaska Vendors Found Selling Tobacco to Minors,
by Year Alaska, 1996-2006**



Source: Alaska Synar Compliance Database, 1996-2007

Best Practices Comparison

	Tobacco	Alcohol
<i>Concrete plan concerning how the state will enforce its law</i>	Yes	Yes
<i>State agency overseeing enforcement</i>	DBH	ABC
<i>Ongoing enforcement inspections employing test inspections</i>	3 Investigators	1 investigator
<i>State funding for enforcement inspections</i>	Tobacco fund	State GF
<i>Prosecution of offenders</i>	Yes, Violation	Yes, Class A misdemeanor & Class C felony for subsequent offenses
<i>Penalties for violating the law</i>	Penalties for both clerks and licensee	Only clerks and licensee if sell is made
<i>Effective merchant education</i>	Tobacco Prevention & Control developed original materials	TAMS

Note: Based Journal of Public Health Management and Practice- Best Practices for Enforcing State Laws Prohibiting the Sale of Tobacco to Minors

NABCA Survey Book

2005

National Alcohol Beverage Control Association
4216 King Street West
Alexandria, Virginia 22302-1507
Phone: (703) 578-4200
www.nabca.org

Penalties for Violations [1] - CS

STATE	SAFE TO A MINOR			SAFE TO INTOXICATED INDIVIDUAL			
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Alabama	\$750 fine	\$1000 fine	Up to \$1000 fine or suspension or revocation	\$300 fine	\$500 fine	Up to \$1,000 fine or suspension or revocation	Penalties quoted for 3rd offenses are possible for 1st and 2nd offenses, if fact dictate.
Idaho	10 days suspension and/or fine for all offenses.	30 days suspension.	6 months and/or fine.	10 days suspension and/or fine.	30 days suspension and/or fine.	60 days suspension and/or fine.	
Iowa Civil Penalty (on license)	Criminal Penalty: If licensee is seller, simple misdemeanor - \$1,500 fine; If employee is seller, simple misdemeanor \$500 fine. 1st violation or 1st within 2 years - \$500 or 14 days suspension; 2nd violation within 2 years - 30 day suspension + \$1,500 fine; 3rd violation within 2-3 years 60 day suspension + \$1,500 fine; 4th violation within 3 years, revocation.			Local authority may impose a fine of up to \$1,000 per violation, suspension of up to 305 days or revocation.			License revoked upon 4th sale to a minor; conviction. If there is no criminal conviction, a hearing is held to determine administrative sanctions.
Maine	\$50 - \$1,000 fine			\$250 - \$750 fine and 7 - 14 days suspension.			Prior conviction considered.
Montgomery County, MD	\$1,000 fine	\$2,000 - \$3,000 fine or suspension	up to \$20,000 fine or suspension or revocation.	\$1,000 fine	\$2,000 - \$3,000 fine or suspension.	up to \$20,000 fine or suspension or revocation.	
Michigan	Maximum \$1,000 fine, possible suspension or revocation.						Penalties not prescribed Decided at discretion of Hearing Commissioner.
Mississippi	2 weeks suspension - one served, one year probation, possible revocation.	Revocation by statute if committed within 1 year by owner.		2 weeks suspension - one served, one year probation.	4 weeks suspension - two served, one year probation, possible revocation.	6 weeks suspension - 3 served, one year probation, possible revocation.	
Montana	\$250 fine	\$1,000 fine	20 day suspension and \$1,500 fine	\$250 fine	\$1,000 fine	20 day suspension and \$1,500 fine	
New Hampshire	\$100 - \$500 fine; 10 - 17 day suspension.	\$250 - \$1,000 fine; 10 - 24 days suspension.	\$500 - \$1,500 fine; 10 - 30 days suspension.	\$100 - \$500 fine; 10 - 17 days suspension.	\$250 - \$1,000 fine; 10 - 24 days suspension.	\$500 - \$1,500 fine; 10 - 30 days suspension.	4th \$750 - \$3,000 fine; 10 - 40 days suspension; 5th revocation if offense was within past 3 years. General penalty and applies to all offenses.
North Carolina	\$1,000 fine or 10 days suspension.	\$2,000 fine or 20 days suspension.	\$3,000 fine and 5 days suspension or 30 days suspension.	\$1,000 - \$2,500 fine or 15 days suspension.	\$2,000 - \$3,500 fine and 3 - 20 days suspension or 30A.	\$2,000 - \$5,000 fine and 20 - 60 days suspension or 90A.	Penalty aggravated when permitted commits violation.
Ohio	Penalty determined by Liquor Control Commission.						
Oregon	10 days suspension or \$1,650 fine.	30 days suspension or \$4,950 fine.	30 days suspension.	10 days suspension or \$1,650 fine.	30 days suspension or \$4,950 fine.	30 days suspension.	Licensee can join the Responsible Vendor Program which requires certain operational standards and can mitigate sanctions.

Penalties for Violations [1] (cont.)- CS

STATE	SALE TO A MINOR			SALE TO INTOXICATED INDIVIDUAL			ADDITIONAL COMMENTS
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Pennsylvania	\$1,000 - \$5,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.*	\$1,000 - \$5,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.	If third violation within four years. Administrative Law Judge shall impose suspension or revocation of a license if the violation of any provision of the crimes code or of the liquor code if the liquor code violation has minimum monetary penalty of \$1,000.
Utah	\$500 - \$3,000 fine and/or 5-90 days suspension.	\$1,000 - \$9,000 fine and/or 10 - 90 days suspension.	Up to revocation.	\$1,000 - \$25,000 fine and/or 10 days suspension to revocation.	Up to revocation.		If no violations for three years, past violation history expunged.
Vermont	Criminal violation - Not less than \$500 and not more than \$2,000 fine and up to 2 years in jail or both. Suspension or revocation of license determined by Liquor Control Board. It can also be a felony if minor injures self or another due to intoxication.			No criminal violation, however, Liquor Control Board has authority to suspend or revoke license.			LCB may fine licensees.
Virginia	25 days suspension of license provided, however, upon payment of \$2,000 - cost of investigation, the suspension will be terminated. Second offense: mandatory suspension.			25 days suspension of license provided, however, upon payment of \$2,000 - cost of investigation, the suspension will be terminated. Second offense: mandatory suspension.			
Washington	5 days suspension or \$500	7 days suspension.	30 days suspension.	5 days suspension or \$500.	5 days suspension or \$2,500 fine.	10 days suspension or \$5,000 fine.	Board has discretionary authority.
West Virginia	\$550 fine or 3 days suspension and \$350 fine.	3 days suspension and \$550 fine.	1 to 2 weeks suspension.	\$550 fine or 3 days suspension and \$350 fine.	3 days suspension and \$550 fine.	1 to 2 weeks suspension.	
Wyoming	Maximum \$750 fine or 6 months imprisonment or both.						Any violation is cause for suspension or revocation.

* An exception exists if licensee has been cited for sale to a minor or visibly intoxicated individual but licensee has completed with certain responsible alcohol management training and has no prior offenses in the past four years. The penalty is then \$50 - \$1,000 fine and/or suspension or revocation.

Penalties for Violations [1] - IS

STATE	SALE TO A MINOR			SALE TO INTOXICATED INDIVIDUAL			ADDITIONAL COMMENTS
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Alaska	45 day closure	90 day closure, felony, up to 5 year in prison and up to \$50,000 fine	Revocation	45 day closure	90 day closure	Revocation	May also fine to \$50,000.
Arizona	\$1,000 to \$2,000 and/or up to 30 days suspension	\$2,000 to \$3,000 and/or up to 30 days suspension	\$3,000 and/or up to 30 days suspension	\$1,500 and/or up to 30 days suspension	\$2,000 to \$3,000 and/or up to 30 days suspension	\$3,000 and/or up to 30 days suspension	Suspension in lieu of fine or in addition to fine permitted.
Arkansas	\$200 - \$500 fine	Within 1 year, \$400 - \$1,000 fine	Within 1 year, \$600 - \$1,500	\$200 - \$500	Within 1 year, \$400 - \$1,000	Within 1 year, \$600 - \$1,500	
California	Suspension or fine	Within 3 years, suspension or fine	Within 3 years, revocation	Suspension or fine	Within 3 years, mandatory suspension	Within 3 years, mandatory suspension	ABC may revoke special event license.
Colorado	15 day suspension - 5 served, 10 held in abeyance	30 day suspension - 10 served, 20 held in abeyance	45 day suspension	15 day suspension - 5 served, 10 held in abeyance	30 day suspension - 10 served, 20 held in abeyance	45 day suspension	For 1st violation, fine can be offered by licensee.
Connecticut	>21 - 3 days \$750; >18 - 5 days \$1,000; >10 - 9 days \$1,250	> 21 - 6 day \$1,500; >18 - 10 day \$2,000; >18 - 15 day \$2,500		Above .15 - \$750; Above .20 - \$1,000	Club: 3 day - \$375, Restaurant: 3 day - drink - \$375, no food 2 day - \$750; Café: 3 day - drink - \$375, no food 2 day \$750; Grocery: alcohol sales 3 day - \$1,500; Package: 1st warning - \$375.		
Delaware	May result in fine or suspension of the license, and if continuous or repeated, may result in revocation of license. Fines can be a maximum of 10% of average monthly gross sales for the 12-month period immediately preceding the offense.						
District of Columbia	May result in fine or suspension of the license, and if continuous or repeated, may result in revocation of license.						
Florida	\$1,000 + 7 days suspension	\$3,000 + 30 days suspension	Revocation	\$1,000 and 7 days suspension	\$2,000 and 30 days suspension	Revocation	
Georgia	Fine + probation	Larger fine + suspension	Larger fine and suspension / revocation	Fine and probation	Larger fine and suspension	Larger fine and suspension / revocation	
Hawaii	\$1,000 fine	\$2,000, suspension or revocation	Suspension or revocation	fine	fine	Suspension and revocation	
Illinois	Discretionary: Revocation, suspension up to 30 days or fine up to \$500 per offense/day.						
Indiana	No Set Fine Schedule						
Kansas	Termining or 1 day suspension	\$100 per count and suspension	\$300 per count and 1 day suspension	\$200 per count	\$300 per count	\$400 per count	4th offense, revocation -- also to intox, minors - up to 9 violations with progressive penalties. 9th violation - revocation.
Kentucky	20 days (x \$50 optional)	20 days (x \$50 for spirits & beer optional) + 20 days closed	Possible Revocation or 40 days closed	Determined by Severity of Case	Determined by Severity of Case	Determined by Severity of Case	Average of penalties actually assessed.
Louisiana	\$100	\$600	\$1,200 + 3 to 10 days suspension	Determined by severity of case.			
Maryland	Determined by local licensing authority.						
Massachusetts							

Penalties for Violations [1] (cont.) - LS

1st offense		2nd offense		3rd offense		Additional Comments	
Minnesota	The Director decides administrative penalties. Second and third offenses result in more severe penalties. Administrative penalties may range from a fine to suspension or revocation of license. Fines range from \$100 to \$2,000. Criminal charges are possible in certain types of violations examples would be sales/sen. under age and unlicensed sale. Sale to underage gross misdemeanor - criminal 1 year - \$3,000 or both.						
Missouri	Administrative penalties are decided by Supervisor of Liquor Control and range from suspension to revocation of license or civil penalties.						
Nebraska	Set by Commission. May suspend, cancel or revoke license.						
Nevada	Local enforcement agencies set penalties.						
New Jersey	Over 18: 15 day suspension; Under 18: 30 day suspension	Over 18: 30 day suspension; Under 18: 60 day suspension	Over 18: 45 day suspension; Under 18: 90 day suspension	15 day suspension	30 day suspension	60 day suspension	Possible revocation. Fines may be imposed by Director. N.J.A.C. 13 19.11
New Mexico	1 day suspension; \$1,000 - \$2,000	7 day suspension; \$2,000 - \$3,000	14 day suspension; \$3,000 - \$4,000	1 day suspension; \$1,000 - \$2,000	7 day suspension; \$2,000 - \$3,000	14 day suspension; \$3,000 - \$4,000	
New York	All penalties for all categories are at the discretion of the Members of the Authority.						
North Dakota	5 day suspension with 1 - 3 days invoked	Within 1 year, invoked days + 15 day additional suspension, with 1 - 15 invoked	Within 1 year, possible revocation, suspension	5 day suspension; with 1 - 3 days invoked	Within 1 year, invoked days + 15 days additional suspension, with 1 - 15 invoked	Within 1 year, possible revocation, suspension	Administrative recommendations not statute or rule.
Oklahoma	Revocation			Revocation			
Puerto Rico	\$2,300 fine	Revocation		none			
Rhode Island							
South Carolina	\$400	\$600	45 day suspension	\$400	\$800	45 day suspension	
South Dakota	\$500.00 fine for business if clerk trained; \$1,000.00 fine if clerk is not trained.	\$1,000.00 fine for business if clerk trained; \$2,000.00 if clerk is not trained.	Suspension of alcoholic beverage license; if convicted 1 year in county jail and/or \$1,000.00 fine.	Maximum penalty - one year in county jail and/or \$1,000 fine.			
Tennessee	\$1,500	\$1,500 and/or suspension	Revocation	\$1,500	\$1,500 and/or suspension	Revocation	Max fine is \$1,500 + court fees.
Texas	7-90 days @ \$150 a day	10 - 180 days @ \$150 a day w/in 36 months	60 to revocation @ \$150 a day w/in 36 months	7 days @ \$150 a day	10 - 15 days @ \$150 a day w/in 36 months	25 to revocation @ \$150 a day w/in 36 months	Minimum fine of \$150 per day may go as high as \$25,000 per day.
Wisconsin	Up to \$500 if no violation w/in 30 months	Up to \$500 or jail for max. of 30 days or both if no violation. In 30 mo.	Up to \$500 or jail for max. of 30 days or both if no violation. In 30 months	\$100 - \$500 or jail 60 days or both			

*HI States have consequences -
fine or suspension or both*

Penalties for Violations [2] - CS

STATE	GAMBLING			LEWD CONDUCT			ADDITIONAL COMMENTS
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Alabama	\$250 fine	\$500 fine	Up to \$1,000 fine or suspension or revocation.	\$200 fine	\$500 fine	Up to \$1,000 fine or suspension or revocation.	Penalties quoted for 3rd offense are possible for 1st and 2nd offenses if facts dictate.
Alaska	30 days suspension and/or fine.	90 days suspension and/or fine.	License revocation	License revocation			
Arizona	Local authority may impose a fine of up to \$1,000 per violation, suspension of up to 365 days or revocation.			Local authority may impose a fine of up to \$1,000 per violation, suspension of up to 365 days or revocation.			
Arkansas	\$200 - \$500 fine	\$500 - \$1,000 fine	Fine; suspension or revocation.			Suspension or revocation.	
Montgomery County, MD	\$1,000 fine	\$2,000 - \$3,000 fine or suspension	Up to \$20,000 fine or suspension or revocation	Fine to revocation depending on severity of offense.			
Michigan	Maximum \$300 fine, possible suspension or revocation.						
Mississippi	2 weeks suspension; one served, one year probation.	4 weeks suspension; two served, one year probation; possible revocation.	8 weeks suspension; 3 served, one year probation, possible revocation.	2 weeks suspension; one served, one year probation; possible revocation.	4 weeks suspension; two served, one year probation; possible revocation.	Revocation	Lewd conduct violation can include fine up to \$1,000.
Montana	Department of Revenue has no jurisdiction in these areas.						
New Hampshire	\$1,500 fine; 10 - 40 days suspension.	\$2,500 fine; 10 - 70 days suspension.	Revocation	\$1,500 fine; 10 - 40 days suspension.	\$2,500 fine; 10 - 70 days suspension.	Revocation	4th \$750 - 3,000 5th revocation if offense was within past 3 years. General penalty and applies to all offenses.
North Carolina	9A - 25A written warning or \$2,500 fine.	3A - 50A or \$300 - \$5,000 fine.	5A or \$500 fine, up to revocation.	6 months A and \$5,000 fine or 1 year active.	Up to revocation.		
Ohio	Penalty determined by Liquor Control Commission.						
Oregon	\$1,850 fine or 10 days suspension.	\$4,950 fine or 30 days suspension.	30 days suspension.	\$1,850 fine or 10 days suspension.	\$4,950 fine or 30 days suspension.	30 days suspension.	Criminal conviction for gambling required prior to administrative sanction.
Pennsylvania	\$50 - \$1,000 fine and/or suspension or revocation	\$50 - \$1,000 fine and/or suspension or revocation.	\$50 - \$1,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.	\$1,000 - \$5,000 fine and/or suspension or revocation.	For lewd conduct offenses, amusement/entertainment permit may also be revoked in addition to or in lieu of fine/suspension.
Utah	\$1,000 - \$25,000 fine and/or 10 days suspension in revocation.	Up to revocation.		\$1,000 - \$25,000 fine and/or 10 days suspension to revocation.	Up to revocation.		If no violations for three years, past violation history expunged.
Vermont	Suspension or revocation of license determined by Liquor Control Board and/or up to \$2,500 fine.			Suspension or revocation of license determined by Liquor Control Board.			
Virginia	Minimum 10 days suspension or \$1,000 civil charge if license involved, 7 days or \$500 if license not involved			Revocation or suspension and/or maximum \$1,000 civil charge depending upon specific conduct.			
Washington	Gambling license required. Felonies may result in denial or revocation of license			\$250 fine or 5 days suspension.	\$1,500 fine or 5 days suspension.	\$3,000 fine or 10 days suspension.	Board has discretionary authority.
West Virginia	\$550 fine or 3 days suspension and \$350 fine.	\$550 fine and 3 days suspension.	1 to 2 weeks suspension.	\$550 fine or 3 days suspension and \$350 fine.	3 days suspension and \$550 fine.	1 to 2 weeks suspension.	
Wyoming	Maximum \$750 fine or 6 months imprisonment or both.					Any violation is cause for suspension or revocation.	

Penalties for Violations [2] - LS

STATE	GAMBLING			LEWD CONDUCT			ADDITIONAL COMMENTS
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Alabama	Six month closure	Revocation		Up to revocation	Up to revocation	Up to revocation	Fine up to \$50,000.
Arkansas	Fines of \$500 to \$3,000 and/or suspension up to revocation						
Arkansas	\$200 - 500	Within 1 year, \$100 - 1,000	Within 1 year, \$600 - 1,000	\$100 - 200	Within 1 year, \$200 - 400	Within 1 year, \$300 - 600	
California	Suspension or fine	Suspension or fine	Suspension or fine	Suspension	Suspension or revocation	Suspension or revocation	
Colorado	15 day susp., 5 - 10 served in abeyance	15/30 - day suspension	Hearing	15 day susp., 5 served, 10 held in abeyance	15 - 30 day suspension	30 - 45 day suspension	For 1st violation fine can be offered by retailer.
Connecticut	3 days \$1,000			Dancers fondling, topless, mingle or simulated sex - 3 day - \$750; Mingling & nude 5 day - \$1,000			
Delaware	May result in fine or suspension of the license, and if continuous or repeated, may result in revocation of license. Fines can be a maximum of 10% of average monthly gross sales for the 12-month period immediately preceding the offense.						
Dist. Of Col.	Handled by the local police.			The ABC Board at a hearing handles lewd conduct.			
Florida	\$250 per type of unlawful game and forfeiture of all unlawful income	\$500 per type of unlawful game and forfeiture of all unlawful income	\$1,000 per type of unlawful game and forfeiture of all unlawful income	\$1,000	Revocation	Not applicable	4th revocation
Georgia	Fine + probation	Larger fine + suspension	Larger fine + suspension or revocation	Fine + probation	Larger fine + suspension	Larger fine + suspension or revocation	
Hawaii	Fine up to \$2,000, suspension or revocation.						
Illinois	Discretionary. Revocation, suspension up to 30 days or fine up to \$500 per offense/day.						
Indiana	\$500	\$750	\$1,000	\$300	\$500	\$1,000	Contraband money is also forfeited to ABC.
Kansas	\$400 per count	\$500 per count + possible suspension	\$500 per count + 1 day susp. per count	\$400 per count	\$500 per count + possible suspension	\$500 per count + 1 day susp. per count	
Kentucky	25 days (x \$50 a day optional fine)	25 days (x \$50 a day) + 25 days closed	Possible Revocation	Determined by Severity of Case	Determined by Severity of Case	Determined by Severity of Case	Average of penalties actually assessed.
Louisiana	\$200	\$400	\$800	Determined by severity of case.			
Maryland	Determined by local licensing authority.						
Massachusetts							
Minnesota	The Director decides administrative penalties: 2nd and 3rd offenses have more severe penalties. Administrative penalties may range from a fine, suspension or revocation of license. Fines range from \$100 to \$2,000. Criminal charges are possible in certain types of violations. Ex: sales/serving under age and unlicensed sale. Felony level criminal charge for gambling - 5 years - \$10,000 or both.						
Missouri	Administrative penalties are decided by Supervisor of Liquor Control and range from suspension to revocation of license.						
Nebraska	Set by Commission - may cancel, suspend or revoke license.						
Nevada	Local enforcement agencies set penalties.						
New Jersey	30 day suspension	60 day suspension	90 day suspension	30 day suspension	60 day suspension	90 day suspension	Fines imposed by Director.
New Mexico	\$3,000	\$4,000	\$5,000	Not under liquor control act.			
New York	\$10,000 fine for 4 + gambling offenses. Possible suspension						
New York	All penalties for all categories are at the discretion of the Members of the Authority.						
North Dakota	5 days susp. with 1-3 days invoked	Within 1 year, invoked days + 15 add'l. with 1-15 invoked.	Within 1 year, possible revocation, suspension.	5 days susp. with 3 days invoked	Within 1 year, invoked days + 15, with 1-15 invoked	Within 1 year, possible revocation, suspension.	
Oklahoma	30 days susp. + \$3,000 fine	Revocation		3 day susp. + \$300 fine	6 day susp. + \$300 fine	Revocation	
Puerto Rico							
Rhode Island							
South Carolina	\$100	\$800	45 day susp	Revocation			
South Dakota	Local courts set penalties.						
Tennessee	Up to \$1,500/count or forfeiture of gambling proceeds.		Revocation	Up to \$1,500/count	Up to \$1,500 and/or suspension	Revocation	
Texas	15 day - revocation; may pay a fine of \$150 to \$25,000 per day in lieu of suspension.						
Wisconsin	\$500 forfeiture per machine on Class B (on-sale, premises.)						

Penalties for Violations [1] - CP

PROVINCE/TERRITORY	SALE TO A MINOR			SALE TO INTOXICATED INDIVIDUAL			ADDITIONAL COMMENTS
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Alberta	\$2,000 or 8 days	\$4,000 or 16 days	Board Hearing	\$1,000 or 4 days	\$1,500 or 6 days	\$2,000 or 8 days	
British Columbia	4-7 day suspension, \$5,000-\$7,000 fine	10-14 days	18-20 days	4-7 day suspension, \$5,000-\$7,000 fine	10-14 days	18-20 days	
Manitoba	\$500 - \$10,000 fine	Up to 18 months imprisonment	Same	\$500 - \$10,000 fine	Up to 18 months imprisonment	Same	Could result in suspension of liquor license.
New Brunswick	\$144 - \$2,500	3 - 5 day suspension	Same	\$144 to fine of \$2,500	3 - 5 day suspension	Same	Adjudicator will rule on suspension.
Newfoundland	Depending on circumstances: Maximum of \$500 and/or 3 months jail or - maximum of \$1,000 and/or 12 months jail						Board holds hearings on violations which could result in loss of license or revocation.
Northwest Territories	Warning letters to \$5,000 fine plus license suspension up to and including closure.						
Nova Scotia	Min. fine, Max. 3 months in jail	Min. fine, Max. 12 months in jail	Min. fine, Max. 12 months in jail	Potential License Suspension	Potential License Suspension	Potential License Suspension	
Ontario	1 - 3 day susp. + server training	21 day susp. with condition on license.	license revoked	written warning	1 - 3 day susp. + server training	At least 26 days suspension	The LLBO cannot levy fines but can apply administrative sanctions on the liquor license.
Prince Edward Island	Not less than \$500 or more than \$1,250 fine	Not less than \$1,250 or more than \$2,500 fine	Same	Not less than \$50 or more than \$200 fine	Not less than \$100 or more than \$500 fine	Same	Licenses can be suspended for both offenses.
Quebec	\$175 - \$425	\$700 - \$1,400	\$1,400 to \$2,800	Same	Same	Same	
Saskatchewan	Administrative sanctions may be taken independent of any criminal conviction. These range from warning letters to suspensions and ultimately revocation (progressive discipline). A precise formula is not applied; each case is determined on its own facts. SLGA has the ability to levy fines.						
Yukon	No set amounts. Suspensions given on a case-by-case basis.						

Penalties for Violations [2] - CP

PROVINCE/TERRITORY	GAMBLING			LEWD CONDUCT			ADDITIONAL COMMENTS
	1st offense	2nd offense	3rd offense	1st offense	2nd offense	3rd offense	
Alberta	Up to cancellation and/or up to \$20,000 fine			Up to cancellation and/or up to \$5,000 fine.			
British Columbia	1-7 day suspension, \$5,000-\$7,000 fine	10-14 days	18-20 days	1-3 days, \$1,000-\$3,000 fine	3-8 days	6-9 days	
Manitoba	Could face license suspension.						
New Brunswick	\$100 to \$1,000	\$200 to \$500 or suspension	30 days to 180 days suspension	No offence provision			
Newfoundland	If conviction is registered in court a hearing could be held and action taken against the license.						
Northwest Territories	No minimum penalty. Board holds hearing, if licensee fails to show cause the Board may cancel or suspend and/or fine the licensee.						
Nova Scotia	License suspension or revocation.						
Ontario	The LLBO and Gaming Control Commission were combined in February '98 to form the Alcohol & Gaming Commission of Ontario.			ACCO does not get involved with adult entertainment - Lewd conduct is under the Criminal Code of Canada.			
Prince Edward Island				Suspension of license.			
Quebec	Suspension and/or up to \$50,000 fine	Suspension and/or up to \$75,000 fine	Suspension and/or up to \$100,000 fine	Not under jurisdiction of RACJ			Not under jurisdiction of RACJ.
Saskatchewan	Administrative sanctions may be taken independent of any criminal conviction. These range from warning letters to suspensions and ultimately revocation. A precise formula is not applied; each case is determined on its own facts. SLGA has the ability to levy fines.						
Yukon	Suspension of license			Suspension of license.			

LB 235



Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices



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OJJDP Enforcing the
Underage Drinking Laws Program

Chapter 1.

Commercial Availability

Commercial availability is shaped by State and local regulations, which determine the number, location, types, and serving and selling practices of alcohol retailers. Great variation is evident in how States regulate commercial availability. Some States are very restrictive and may stipulate State ownership of off-sale outlets,¹ limited number and types of outlets, and local prohibition (in "local-option States"),² while other States have only limited controls.

All 50 States prohibit sales to those under age 21, although definitions of "sales" and possible exceptions differ among jurisdictions. The overall structure of alcohol availability in a particular locale will influence the effectiveness of the prohibition. For example, young people have reported that some outlets, notably convenience stores, are more likely than others to sell to minors (Biko Associates, 1998; Forster et al., 1994; Wagenaar et al., 1993). In at least one compliance check report, geographic areas with a high density of retailers and low per capita income have lower rates of compliance (Preusser & Williams, 1992) with underage purchase laws.

Thus, States and localities need to address the following five sets of commercial sales regulations:

1. Strictly prohibit sales to minors, providing few if any exceptions;
2. Limit the types and locations of commercial outlets that are likely sites for youth purchases;
3. Mandate serving and selling practices that reduce the likelihood of illegal sales to minors;

¹ On-sale (also known as "on-premise") establishments are those that serve alcoholic beverages for on-premise consumption (e.g., bars, restaurants, etc.). Off-sale (off-premise) establishments are retail outlets such as convenience or package stores.

² "Local option" States permit sub-State entities such as counties and municipalities to set alcohol policies locally.

4. Conduct comprehensive compliance check enforcement programs; and
5. Impose appropriate administrative, criminal, and civil penalties for violations.

Strict Prohibitions of Sales or Gifts to Minors

Although all States prohibit alcohol sales to minors, some States permit exceptions. For example, in several States, minors can legally obtain alcohol from a commercial vendor if they are accompanied by a parent or guardian, or they can purchase and deliver alcohol to parents if they have a written authorization (Inspector General, 1991). These exceptions further complicate the role and duty of the commercial server in determining who may legally purchase alcohol. If an exception is desired allowing parents or spouses to provide alcohol to minors, it should at least be limited to private residences (see chapter 2). The best practice is to prohibit *all* commercial transactions (including sales and gifts) to those under age 21, as is the practice in most States. As a matter of fairness, commercial vendors should have an affirmative defense that they reasonably or in good faith relied on apparently valid, yet false, identification.

Best Practice =

**Ban commercial sales and gifts to minors.
Prohibit all commercial sales, gifts, or other furnishing of alcohol to minors without exception, and provide vendors an affirmative defense regarding apparently valid, but false, identification.**

Licensing Restrictions

Restricting the location of retail outlets

Many States and local governments create geographic buffer zones between alcohol outlets and schools, playgrounds, other youth facilities, and residential neighborhoods. Distance requirements vary widely—they may apply to only certain types of outlets, and the restrictions may be discretionary by either the State or local licensing body and applicable only if the school administration files a protest.

Most States give local jurisdictions discretion to create buffer zones using local land use and zoning ordinances, a strategy that many cities are now using (League of California Cities, 1998; Wittman, 1994).

Youth buffer zones create a barrier between young people and alcohol and have both practical and symbolic benefits. By reducing the number of alcohol outlets that are readily accessible, they make it more difficult for young people to purchase alcohol (cf. Alaniz et al., 1998). In many communities, buffer zones will also reduce the number of convenience stores in residential areas. This may be particularly important near schools, limiting the possibility of student consumption during and after school (for discussion, see Mosher, 1998). They also send a community message that alcohol and young people are not a good mix. To be effective, buffer zones require a large enough geographic area (Wittman [1998a] recommends 1,000 feet) and permit only limited exceptions.

In Illinois, for example, retail outlets (other than hotels) are prohibited within 100 feet of a school, and renewals for licenses in this zone will be denied if a school has been built next to a preexisting retailer.

California uses a 600-foot buffer zone around schools, playgrounds, and youth facilities, exercised at the discretion of the State Alcoholic Control (ABC) Department. The buffer zone does not apply to preexisting alcohol outlets (California Business & Professional Code § 23789). School protests may be critical if a community wants the ABC Department to exercise its discretion.

Restrict the location of alcohol outlets.

Create buffer zones that extend at least 1,000 feet to separate alcohol outlets from schools, youth facilities, and residential neighborhoods; that can be applied retroactively; and that permit only limited exceptions based on local circumstances.

Best Practice #2

Restricting special licenses for youth- or family-oriented community events

States and/or local governments typically issue special, temporary licenses for alcohol sales at special events such as music concerts, community fairs and celebrations, and sporting events. Some venues, such as sporting arenas or concert halls, may receive a special events license that permits ongoing sales on the premises and is not limited to a specific event. Criteria for special events licenses vary, although in most jurisdictions they are readily available at low cost with few restrictions. Licensees may be nonprofit organizations that use alcohol sales as a fundraising strategy. In some cases, the alcohol sales are linked to an alcohol company's sponsorship of the event. In exchange for funding, event organizers agree to sell the company's products and publicize the company's sponsorship. (See chapter 2 for discussion of a parallel form of alcohol availability involving private events such as weddings and banquets, where alcohol is not sold to the public.)

Alcohol sales at community events create a high risk of underage drinking and related problems, including assaults, drinking and driving, and vandalism (Gliksman, Douglas, Rylett, & Narbonne-Fortin, 1995; Pratt, Rothstein, Meath, & Toomey, 1997). States and local jurisdictions have taken various steps to reduce these risks, including:

- Restricting the issuance of licenses at youth-oriented and family events;
- Prohibiting alcohol sales at specific venues popular with young people;
- Designating alcohol-free days or periods within longer events such as community fairs;
- Establishing restricted drinking sections at special events where young people are not permitted to enter;
- Prohibiting participants from bringing alcohol into the event; and
- Requiring responsible beverage service management policies and training (Institute for the Study of Social Change, 1994a, 1994b; Pratt et al., 1997). Local officials report that such restrictions reduce youth alcohol problems associated with these events (De Lucio, Wilkes, & Alaniz, 1997; Gliksman et al., 1995).

Strong market and political forces often oppose such regulations. A decision to ban alcohol sales may threaten an alcohol company's sponsorship of the event. Many politically connected nonprofit organizations are dependent on alcohol sales at special events, and alcohol sales are viewed by many special event planners as an integral, lucrative component. These economic and political forces may deter governmental action. For example, the city council in Greenwood, Mississippi, concerned that a ban would hurt the local economy, rejected a citizen drive to ban beer sales at festivals and events held on city property (*Alcoholic Beverage Control*, 1992). Despite this type of resistance, many communities are successfully imposing new restrictions on such sales.

States and communities should review and reform their licensing practices for special events. Regulations should strictly limit alcohol sales and alcohol company sponsorships at youth- and family-oriented events, reviewing each on a case-by-case basis. If a special license is issued, alcohol should be incidental to the purpose of the event, and strict policies should ensure that sales to young people do not occur. These policies should include requirements that the organizer create a designated, cordoned-off area for alcohol sales and consumption where young people are not allowed, and provide adequate training to staff and security. Nonprofit organizations should be permitted a limited number of special licenses in a year (Mosher, 1991). For sample model ordinances, see LaFond, Klaudt, Toomey, and Gehan, 1998, and Wittman, 1998a.

Some communities use methods other than designating a cordoned-off area to prevent sales to minors at community events. These include issuing wristbands to people over 21 to indicate that they can buy alcohol. Such strategies are easily subverted. Restricting access to the area where alcohol is sold is the most effective means of reducing access to alcohol by minors at community events.

Hispanos Unidos, an organization in Redwood City, California, has organized Cinco de Mayo celebrations since 1988. After lengthy internal discussion, the organization decided to make the celebration alcohol free, resulting in cancellation of the event in 1991 due to lack of funds. Members who disagreed with this policy accepted alcohol company sponsorship and held a rival celebration. However, the following year, Hispanos Unidos succeeded in mounting an alcohol-free celebration, which experienced fewer alcohol-related problems and greater community and business participation than the rival celebration supported by alcohol sales and alcohol company sponsorship (De Lucio et al., 1997). Many other communities have taken similar actions to remove alcohol sponsorship and sales from community events (Institute for the Study of Social Change, 1994a, 1994b; Marin Institute, 1992). For example, alcohol-free community celebrations of New Year's Eve ("First Night") have become popular in communities across the country.

Best Practice #3

Restrict alcohol sales at community events. Strictly limit alcohol sales and alcohol industry sponsorships at youth- and family-oriented community events; impose strict conditions designed to reduce youth access at special events where alcohol is sold.

Regulations for Serving and Selling Practices

Age of server and seller

States impose varying limits on the minimum age of employees working in commercial alcohol outlets, with many States distinguishing between those who serve alcohol (e.g., bartenders and waitresses in on-premise establishments) and those who sell it (e.g., clerks in off-premise establishments). Virginia and North Carolina impose no age limit for off-premise employees but set a minimum age of 18 (Virginia) and 21 (North Carolina) for alcohol servers.

Minimum ages vary from 16 to 21 years of age in other States, with the large majority designating 18 as the minimum age for either sales or service. Some States, including California, allow 18-year-olds to sell alcohol, provided they are continuously supervised by someone over age 21. Other States distinguish between bartenders and grocery store employees (National Alcohol Beverage Control Association [NABCA], 1998). In most States, the age limits do not apply to employees who are not engaged in selling or serving alcohol.

Research confirms the observations of many people involved in enforcing laws prohibiting sales to minors and implementing responsible beverage service programs: underage sellers and servers have a greater difficulty refusing sales to underage buyers because they are more likely to misjudge the customer's age, make exceptions for friends and acquaintances, and respond to peer pressure (Forster et al., 1994; Inspector General, 1991; Mosher, 1991; Wagenaar et al., 1993; Wolfson, Wagenaar, & Hornseth, 1995).

Unfortunately, economic interests, particularly those of the restaurant industry, are lobbying for legislation to ease server and seller age limits. New Mexico, for example, lowered its age limit from 21 to 19 (except for bartenders) in March 1999 as a means to create jobs for young people (*Alcoholic Beverage Control*, 1999). This lobbying effort is occurring despite a recent national survey that found that nearly 80 percent of respondents favor laws that require all servers and sellers to be at least 21 years old (Harwood, Wagenaar, & Zander, 1998).

Best Practices 1

Restrict the age of alcohol servers and sellers.
Require that all retail alcohol outlet employees who are engaged in the sale or service of alcohol be at least 21 years of age.

Restrictions on minors' access to public drinking establishments

State and local regulations vary widely in the extent to which they permit minors to enter on-sale retail alcohol outlets (Inspector General, 1991). Most States restrict minors' access to bars and nightclubs and allow them to enter restaurants, and some States prohibit minors from entering any licensed establishment. If the distinction between a bar and a restaurant is blurred, problems can result. California law, for example, permits minors to enter licensed restaurants, but restaurants are required only to have the *capacity* to serve meals, and many maintain bars on the premises and function more as nightclubs, particularly late at night (California Business & Professions Code §§ 23787, 25665).

Allowing minors into drinking establishments such as bars and nightclubs is, in the words of one enforcement official, "a regulator's nightmare" (Inspector General, 1991). It creates numerous difficulties for servers, who must conduct repeated identification checks and continuously track who is actually drinking the beverages being served. If minors are barred from the establishment, age identification checks can occur primarily at the door, conducted by a trained employee using proper tools and lighting, thus greatly reducing the ability of minors to obtain alcohol on the premises. The restaurant exception should be applied only to bona fide restaurants that provide table service, maintain a high ratio of food to alcohol sales, and do not have a separate bar or drinking section accessible to minors.

Test Practice #5

**Restrict minors' access to bars and nightclubs.
Prohibit minors from entering bars and nightclubs,
which should be clearly distinguished from restaurants.**

Easy detection of false identification

Many minors possess false identification that they may use in attempts to purchase alcoholic beverages. Research suggests that, in most instances, young people do not need to use false identification because so many retailers in a community routinely sell to them without asking for proof of age (Grube, 1997). False identification still contributes to youth access, however, and State and local governments and retailers can take two relatively simple steps to reduce its use. (See chapter 3 for complementary recommendations regarding sanctions against minors and providers of false identification.)

First, several States have redesigned State drivers licenses and identification cards to make them tamperproof and easy to examine. California and other States, for example, issue minors' licenses and cards with profile photographs and use plastic materials that are difficult to alter (Inspector General, 1991). Second, States can require that licensed outlets install and use State drivers license scanners. The scanner reads the magnetic strip on the back of the license so that the user can determine the validity of the birth date and other identifying information printed on the front.

Pennsylvania is the first State to introduce scanners at retail outlets. Stores in the State have now installed them, and the State is making them available to alcohol retailers for \$900 (*The Observer*, 1996). Seven-Eleven stores in California have installed similar devices (Otten, 1998). This new technology, combined with changes in license and identification card design, provides valuable tools for retailers to reduce the risk of accepting invalid identification from minors attempting to purchase alcohol.

Best Practice #6

Install and use drivers license scanners.

Create easy-to-inspect and difficult-to-alter State drivers licenses and identification cards, and require the installation and use of drivers license scanners by all alcohol retailers over a phase-in period.

Home delivery and Internet sales

Only one study has been conducted to date on youth access through home delivery (Fletcher et al. [in press]). This practice (legal in about half the States) allows off-sale retailers to deliver alcohol to the purchaser at a private residence. The researchers surveyed young people and retailers in 15 small and midsize communities in Minnesota and Wisconsin. Their findings are startling: 10 percent of 12th graders and 7.3 percent of 18- to 20-year-olds reported purchasing alcohol delivered by a retailer to a home or individual in the past year. The authors speculate that high school seniors are more likely to use delivery services because their older counterparts can easily access alcohol by other means. Those using this method are also more likely to engage in heavy, high-risk drinking, and retailers who engage in home delivery are more likely to sell beer kegs.

As these findings suggest, home deliveries open an additional avenue for youth access to alcohol. Delivery personnel are not monitored by management, surveillance cameras, or law enforcement, so they may be less likely to inspect identification; and young people may also feel less risk

of exposure or penalties for these purchases. If asked for identification, they can simply say the person ordering the alcohol is not present. Home delivery may also be one means to supply teen parties in private residences, which often involve large quantities of alcohol, including kegs. For these reasons, at least one community coalition has sought strict control of home deliveries of alcohol (Ehrhardt, 1995).

Internet and mail-order sales raise similar concerns, and there have been numerous reports of shippers leaving alcohol addressed to children at private residences (e.g., Armstrong, 1995). Controls are even less likely in these cases, since the deliveries are being made by firms whose normal business is not alcohol sales, thereby making them less familiar with legal requirements regarding underage sales and proper identification. No research has been published on the prevalence of young people ordering alcohol through the Internet or by mail order, however, and the risk appears smaller than that for home delivery for at least three reasons: (1) this method of purchase takes a long time (at least a week in most cases); (2) credit cards are usually required; and (3) the products being offered are more likely to be expensive.

Internet and mail-order sales have stimulated a contentious political battle, however, not only because they might increase access to minors but also because State tax agencies are concerned about lost tax revenues, and alcohol wholesalers are concerned that their markets may be undermined. The wholesalers have joined with several organizations including public health groups to form Americans for Responsible Alcohol Access (ARAA). This new coalition seeks to prohibit Internet/mail-order alcohol sales, arguing that they increase alcohol access to minors (ARAA, 1999; *Kane's Beverage Week*, 1997). Small wineries, which oppose regulation, argue that restrictions violate their constitutional rights under the interstate commerce clause. They also contend that wholesalers are seeking controls not because of risks of selling to minors but because they want to maintain a monopoly on all alcohol distribution in their territories (*NBC News Online*, 1997). Congress and many State legislatures are now grappling with these conflicting economic, interstate commerce, and health agendas.

If States permit either home delivery or Internet/mail-order sales, they can reduce the risk of youth access by establishing strict procedures similar to those used in beer keg sales (see chapter 2). As a condition of sale, the deliverer should be required to fill out a form that includes the amount of alcohol being purchased, the purchaser's drivers license or State identification card number, and an affidavit signed by the purchaser confirming that he or she is at least age 21 and understands the civil and criminal penalties for furnishing alcohol to minors. The deliverer should be

required to maintain these files for a set period of time and produce them to enforcement agencies on demand; failure to maintain records should result in administrative penalties (Pratt et al., 1997; for sample ordinance, see LaFond et al., 1998). The purchaser can similarly be held liable both criminally and civilly if he or she furnishes the alcohol to minors.

Best Practice #7

Regulate home delivery and Internet/mail-order sales.
Prohibit home delivery of alcohol and either prohibit or strictly regulate Internet/mail-order alcohol sales.

Mandated responsible beverage service programs

Responsible beverage service programs target both on-sale and off-sale alcohol retailers and are designed to reduce sales to minors and intoxicated adults. They include three critical components:

1. Policy development,
2. Manager training, and
3. Server/seller training (Mosher, 1991).

Evaluations of their effectiveness (which have focused primarily on preventing intoxication) are mixed but promising (Saltz & Stanghetta, 1997; Toomey et al., 1998; Wagenaar & Toomey, 1998). In general, programs are more likely to be successful when they include a policy development component, focus on skills development and active learning, and are implemented communitywide in conjunction with compliance checks and a media advocacy campaign (Grube, 1997; Saltz & Stanghetta, 1997; Toomey et al., 1998). Compliance checks may be particularly important to ensure success of the underage sales component (Grube, 1997). Evaluations of merchant education programs targeting tobacco sales to minors have reached similar conclusions (Chaloupka, Levy, & Grossman, 1998). Two studies suggest that mandated responsible beverage service programs that require all establishments in a jurisdiction to participate are more effective than programs implemented on a voluntary basis (Dresser, 1998; Wagenaar & Holder, 1991). Mandated programs may not be politically or practically feasible, however, until after a community or State has developed and implemented voluntary programs.

Responsible beverage service programs have become increasingly popular during the 1990's. At least 15 States, as well as numerous local jurisdictions, have instituted mandated programs or encouraged their adoption by offering strong incentives to retailers (Pratt et al., 1997). In Texas, for example, retailers can avoid most forms of dram shop liability¹ if they participate in a responsible beverage service program (Mosher, 1999b). Many communities have instituted communitywide programs, some of which have become mandatory. Many retailers have developed their own programs, sometimes in conjunction with a community program.

Unfortunately, research findings have not played a major role in this implementation process. Most programs focus primarily on server training and ignore policy development and manager training. Often they lack a community component. In some cases they are instituted by industry groups as an alternative to, instead of in conjunction with, compliance checks and other policy interventions (Mosher, 1991; Toomey et al., 1998). In such cases, responsible beverage service programs are at best doing no harm.

Responsible beverage service programs focus primarily on sales to intoxicated persons but include a component on preventing sales to minors. A comprehensive curriculum will ensure adoption and implementation of the following policies (on a voluntary basis, if not mandated by the local or State jurisdiction):

- Minimum age of 21 for servers and sellers;
- Staff notification and acknowledgment of legal responsibility and consequences for violation;
- Procedures to ensure that all persons seeking entry or service will be subject to an identification check (including denying entry to bar areas);
- Identification checks for anyone who appears to be age 30 or younger (higher ages in some circumstances);
- Guidelines regarding acceptable identification cards and procedures for establishing validity; and
- Internal compliance checks conducted by management to ensure compliance.

¹ In dram shop liability, establishments that serve alcohol can be held legally responsible for harm caused by their patrons who are served alcohol illegally.

The manager and server training components focus on implementation of these policies, using active learning techniques. (For discussion, see Mosher, 1991; Prevention Research Center, 1996). The training should emphasize management policies that are likely to lead to more responsible practices.

Best Practice #3

Mandate responsible beverage service programs.
Initiate and, over time, mandate communitywide responsible beverage service programs designed in conjunction with compliance checks and other policy interventions.

Compliance Checks (Decoy or Sting Programs)

Routine, comprehensive compliance checks are the key strategy for deterring commercial alcohol sales to minors. They involve the use of underage buyers by law enforcement agencies as deputies to test retailers' compliance with laws regarding the sale of alcohol to minors. A comprehensive program consists of the following components:

- Notification to retailers, including the program's goals, procedures, and timeframes;
- Opportunity for retailers to participate in responsible sales and service programs prior to the start of the compliance check;
- Community outreach and media advocacy to publicize the program's design and purpose;
- Random selection of outlets to be included in the initial wave of the program (100-percent coverage if feasible);
- Followup communication informing each retailer of the results; and
- Repeated notifications to licensees of the ongoing compliance check program and repeated waves of checks over set periods of time (two or more times per year), which may include targeted checks of retailers identified as violators in previous waves (Fitch, Toomey, Gehan, & Wagenaar, 1998; Grube, 1997).

Properly administered compliance checks sharply reduce illegal sales to minors. Grube (1997) reports the results of a comprehensive program implemented in three experimental communities as part of the Community Trials Project administered by the Prevention Research Center. Outlets in the experimental sites were about half as likely to sell alcohol on a posttest purchase survey as outlets in the comparison sites, dropping from a range of 33 percent to 72 percent to a range of 4 percent to 33 percent. Preusser, Williams, and Weinstein (1994) reported that a compliance check program in Denver, Colorado, resulted in reduced sales to underage police cadets from 58 percent to 26 percent over a 10-month period, after three waves of enforcement. Fitch et al. (1998) report similar or greater declines in two local programs. Lewis et al. (1996) offer additional evidence that compliance checks will reduce youth sales, even when implemented by a community coalition without direct law enforcement involvement. Florida has maintained a compliance rate of 88 percent to 90 percent as a result of 20 years of consistent compliance investigation.

Compliance checks, of course, address only commercial availability. As this avenue for obtaining alcohol is curtailed, young people will likely find alternative avenues through social sources (Wagenaar et al., 1996; see chapter 2). Research studies have not assessed the extent to which this substitution may occur, although overall youth consumption will probably decrease as commercial availability diminishes. Grube's findings (1997, 1998) suggest that compliance check programs will reduce youth consumption, at least when they are combined with other community interventions. Forster et al. (1998) report substantially lower increases in smoking among teenagers in communities adopting tobacco compliance check programs compared to those in control communities.

To be effective, the programs must avoid several common weaknesses. First, they need to be conducted routinely. One-time compliance checks will have little or no long-term effect. Second, they must be communitywide and build community support, without which industry opposition will likely result in the program being terminated or curtailed. Third, they need to be well-designed to ensure that the procedures are fair and not subject to either political or legal attack (for discussion, see Pratt et al., 1997). Finally, ongoing funding sources need to be established. Compliance checks can be made self-supporting through special license fees and/or by recycling fines for violations.

Compliance checks are becoming increasingly common nationwide. In California, for example, the Alcohol Beverage Control (ABC) Department has developed an ambitious State/local partnership program that addresses all of the pitfalls listed above. The Department, working with local law enforcement agencies, conducts onsite visits with retailers, offers licensee education classes, and funds local agencies to conduct compliance checks and other enforcement actions. Its guidelines for conducting compliance checks stress the need for media involvement, community support, licensee notification, and fair procedures that protect against charges of entrapment. The Department reports that cities participating in the program have significantly decreased the number of licensees selling to minors during the compliance checks, from more than 30 percent to less than 10 percent (Stroh, 1998). Fitch et al. (1998) have developed a law enforcement manual that serves as a basic resource for local compliance check programs in that State. Many other States have statewide programs, and local communities are also implementing them with or without State support.

⁴ Control States operate State stores as well as license private establishments. They can use employee disciplinary policies in the State stores to penalize poor management or server performance.

A well-designed compliance check program gives retailers full notice of the impending program, offers assistance and training, uses decoys who are clearly underage, and avoids false identification or any other trick or subterfuge to encourage an illegal sale. Because compliance appears so easy, it is surprising that violation rates are so high. At the same time, communities find that a large percentage of establishments do comply, particularly after one warning. This undermines the arguments made by violators that the programs constitute unfair entrapment. It also supports reports from young people and law enforcement personnel that youth buyers know which retailers in the community are likely to sell to them and which retailers they need to avoid. The program's goal is to send a clear message to those who consistently ignore their legal responsibility: either follow the example of complying licensees or face stiff penalties, including the possible loss of your license.

Best Practice #9

Carry out compliance check programs.

Implement comprehensive compliance check programs that are ongoing and communitywide; include a media advocacy component; and follow strict guidelines to ensure fairness.

Penalties for Violating Commercial Availability Restrictions

Violation of commercial availability restrictions can lead to three types of penalties, which can be imposed separately or concurrently: *administrative*, *criminal*, and *civil liability*. Each has distinctive purposes, consequences, and roles in a comprehensive prevention program.

Administrative penalties target the retailer's State and/or local operating license. State and local governments issue alcohol retail licenses as a necessary condition to conduct business and, through the regulatory process, establish standards of conduct for selling alcohol.⁴ The license establishes a privilege, not a right, and governments have the authority to suspend or withdraw the privilege or impose a fine on the business if the standards of conduct are violated.

Criminal penalties, in contrast, target the individual committing the violation rather than the license. Criminal law establishes moral judgments regarding individual behavior. Penalties, which may include fines, imprisonment, and/or probation, are assessed against the offender and may carry grave

consequences for the individual's future. Because of the gravity of this process, the U.S. Constitution's Bill of Rights establishes the basic rights of an individual to a fair criminal procedure (for discussion, see Mosher, 1995).

Civil (or "dram shop") *liability* involves private lawsuits to recover monetary damages caused by the negligence of another and rests on a separate set of legal principles that does not involve direct government action. In a civil liability action, an alcohol retailer who furnishes alcohol to a minor can be sued in a private lawsuit and held responsible for the damage caused by the minor while under the influence of the alcohol (Holder et al., 1993).

All States impose both criminal and administrative penalties for illegal sales of alcohol to minors, although the specific sanctions vary. In many States, local governments can establish separate administrative structures for licensing alcohol outlets, which may include administrative penalties (Pratt et al., 1997). Civil liability law, on the other hand, varies from State to State and cannot be imposed at the local level (Holder et al., 1993; Mosher, 1999b). Some States do not impose any civil liability on alcohol retailers, holding as a matter of law that the minor drinker is entirely responsible for any damage he or she causes. This is a minority position that contradicts basic concepts of negligence law applied to most other business enterprises. Most States recognize civil liability, but many have placed restrictions on its application. In California, for example, lawsuits are allowed only if the retailer sells or serves to an obviously intoxicated minor. (California Business & Profession Code § 25602.1). Other States that recognize the civil liability doctrine do not require evidence that the minor was intoxicated at the time of the sale (Mosher, 1999b). Some States have strict notice and statute of limitations requirements, place limits on the damages a plaintiff may recover, or restrict who has standing to bring a lawsuit (Mosher, 1999b).

From a public health perspective, the purpose of sanctions is to reduce or deter future violations, thereby improving the community's health and safety. Research on deterrence shows that, in order to be effective, there must be a credible threat that a significant negative consequence will occur. The threat must be perceived to be swift and certain, and, for the effect to be maintained, the threat must be perceived to continue over time. Increasing penalties will have little or no effect when the other elements (swiftness, certainty, and continuity) are not present (Ross, 1992).

Using these criteria, administrative penalties are clearly the most effective mechanism for deterring illegal alcohol sales to minors. They create a credible, severe threat—significant reduction in the profitability of the business and, in serious cases, the loss of the business. Licensees will perceive the penalty as relatively certain if it is tied to a well-publicized compliance check program and it can be imposed relatively swiftly.

Administrative actions are much less complex than their criminal counterparts. They can be held before civil officers in administrative hearings, require a lower burden of proof, and occur in a more timely manner. They are also more certain. Criminal dockets are typically clogged, and long delays are common. District attorneys and judges may view alcohol sales violations as relatively minor compared to other crimes, resulting in early dismissals. Administrative penalties are therefore easier to impose and less expensive. They also can be made self-supporting by recycling fines collected to pay the costs of administration (Pratt et al., 1997; Preusser et al., 1994).

Administrative penalties have an important additional advantage over criminal sanctions. Because they target the license, they hold the licensee/owner primarily responsible for the violation. Management policies and manager/server training, which are the responsibility of the licensee, are crucial to maintaining a safe and responsible alcohol establishment (Mosher, 1991). Employee malfeasance can be addressed by the licensee through internal disciplinary action. Administrative sanctions, therefore, target the individuals who are in the best position to prevent future violations. Criminal law, on the other hand, holds the server/seller primarily responsible for the illegal sale, and the licensee may be absolved from any responsibility. They target individual malfeasance but do not focus on the business or environment that is creating the public health risk. In public health terms, administrative penalties promote environmental or systems change, the most effective prevention strategy (Holder, 1998).

To be effective, administrative penalties should impose real costs on the violator and increase in severity for repeat offenses (Inspector General, 1991). In California, for example, the first offense usually results in a fine and recommendation that the licensee enroll in a responsible beverage service program; the second offense within 36 months will most likely lead to license suspension; and a third offense within 36 months may result in license revocation (California Business & Professions Codes §§ 25658; 25658.1).

While penalties should be significant, it is important that they not be *too* severe, especially for first offenses. Law enforcement officials are less likely to impose penalties if the punishment is perceived as too severe and out of proportion to the seriousness of the offense.

Civil liability and criminal sanctions complement administrative penalties. Once established by statute or court decision, civil liability does not require direct government action. Because of the expense and complexities of the process, civil liability cases are generally limited to more serious injury

cases. They share two important advantages with administrative penalties: they target the licensee (who is held responsible for the action of his/her employees), and they focus at least indirectly on management policies (Holder et al., 1993). Research studies have found that imposing civil liability reduces alcohol-related traffic crash deaths, probably because of these advantages and in spite of the lack of swift or certain punishment (Sloan, Reilly, & Schenzler, 1994; Wagenaar & Holder, 1991). Because of their relative severity and expense, criminal sanctions should also be reserved for more serious cases, particularly where the illegal sale resulted in serious injury or death.

Best Practice #10

Impose appropriate penalties for commercial violations. Impose strict administrative penalties on retail licensees for violations of sales-to-minors laws, which increase with severity for repeated offenses. Complement administrative penalties in serious cases by permitting civil liability lawsuits against licensees based on common law negligence principles, and by imposing criminal sanctions.

Enhanced Enforcement of Laws to Prevent Alcohol Sales to Underage Persons --- New Hampshire, 1999-2004

In 1984, the National Minimum Drinking Age Act (Public Law 98-363) was passed, requiring states to raise to 21 years the minimum age to purchase and publicly possess alcohol. Although the law has contributed to substantial reductions in underage drinking and alcohol-related motor-vehicle crashes (1), alcohol use and binge drinking rates among youths remain high in the United States, and efforts by youths to purchase alcohol from licensed establishments frequently are successful (2,3). To reduce alcohol sales to persons aged <21 years in Concord (2000 population: 40,687), New Hampshire, the Concord Police Department (CPD) and New Hampshire Liquor Commission (NHLC) conducted a pilot program of enhanced law enforcement with quarterly compliance checks of alcohol licensees during March 2002--February 2004. This report summarizes the results of that program, which indicated that enhanced enforcement 1) resulted in a 64% reduction in retail alcohol sales to underage youths and 2) was temporally associated with declines in alcohol use and binge drinking among Concord high school students. These findings emphasize the potential effectiveness of enhanced enforcement of minimum drinking age laws to reduce consumption of alcohol by underage youths.

NHLC routinely conducts statewide compliance checks by using persons aged 17--19 years to attempt purchases of beer or wine. If questioned, buyers are instructed to state their true age and, if asked, to present their driver's license to verify their age. During October 1999--February 2004, routine compliance checks were conducted at 29% (539 of 1,839) of "off-sale" alcohol licensees (i.e., businesses that sell alcohol to be consumed off-premises, such as convenience, grocery, and state liquor stores) outside of Concord each year. In Concord, during October 1999--February 2002, routine compliance checks were conducted one to two times per year at all off-sale alcohol licensees.

During March 2002--February 2004, CPD conducted a campaign of increased enforcement of the minimum drinking age. The campaign included three components: 1) quarterly compliance checks of all off-sale alcohol licensees; 2) enhanced administrative penalties for noncompliance, including a mandatory fine levied against the alcohol licensee, temporary suspension of retailers' alcohol licenses beginning with the first offense, and increasing penalties for subsequent offenses (Table); and 3) media coverage of enhanced enforcement activities, such as reporting the number of citations issued for noncompliance. Quarterly compliance checks were conducted throughout the intervention period; however, mandatory licensee fines and suspensions were in effect only during August 2002--July 2003. The enhanced administrative penalties were announced by CPD in a letter sent to all Concord alcohol licensees in June 2002. Under New Hampshire state law, store clerks who sold alcoholic beverages to underage buyers also were subject to fines and penalties, which were issued at the discretion of the local judicial system throughout the study period.

To estimate the number of youths who drank alcohol, the New Hampshire Department of Health and Human Services analyzed data from the Youth Risk Behavior Survey (YRBS) conducted at Concord High School among students in grades 9--12 in 2001 and 2003. In 2001, a total of 1,131 (62.0%) of 1,824 high school students participated in the Concord YRBS. In 2003, a total of 1,274 (74.0%) of 1,721 students participated. Statewide data on alcohol consumption by high school students were obtained from the 1995 and 2003 YRBS conducted by New Hampshire. Because of low response rates in 1997, 1999, and 2001, data from New

...surveys in most years were not weighted, and therefore were not used for comparison. In 1995, a total of 2,092 students participated in the New Hampshire YRBS; the overall response rate was 65.0%. In 2003, a total of 1,322 students participated in the New Hampshire YRBS; the overall response rate was 61.8%. Current alcohol use was defined as having at least one drink of alcohol on ≥ 1 day during the preceding 30 days. Binge drinking was defined as having five or more drinks of alcohol in a row during the preceding 30 days.

In Concord, before enhanced enforcement activities, 62 (28.2%) of 220 licensees sold alcohol to underage youths during compliance checks (Figure 1). During enhanced enforcement, 39 (10.2%) of 383 licensees sold alcohol to underage youths during compliance checks (relative risk [RR] = 0.4; 95% confidence interval [CI] = 0.3--0.5). During enforcement checks elsewhere in New Hampshire, outside of Concord, 308 (30.5%) of 1,007 licensees sold alcohol to underage youths in compliance checks during October 1999--February 2002 (Figure 2). During March 2002--February 2004, a total of 231 (27.7%) of 832 licensees sold alcohol to underage youths (RR = 0.9; 95% CI = 0.8--1.1).

Among Concord high school students, statistically significant declines occurred in the proportion of students who reported current alcohol use (from 49.8% in 2001 to 39.9% in 2003; RR = 0.8; 95% CI = 0.7--0.9) and binge drinking (from 32.0% in 2001 to 25.0% in 2003; RR = 0.8; 95% CI = 0.7--0.9). Statewide, no statistically significant decreases occurred in the proportion of New Hampshire high school students who reported current alcohol use in 1995 (53.1% [95% CI = 50.2%--56.0%]) versus 2003 (47.1% [95% CI = 41.8%--52.4%]) or binge drinking in 1995 (32.9% [95% CI = 30.2%--35.6%]) versus 2003 (30.6% [95% CI = 25.9%--35.3%]).

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Editorial Note:

In Concord, New Hampshire, quarterly compliance checks and mandatory penalties were associated with substantial reductions in retail alcohol sales to underage buyers. During this same period, retail alcohol sales to underage buyers in the rest of the state remained unchanged. In addition, both current alcohol use and binge drinking by Concord high school students decreased during 2001--2003. These findings are consistent with other studies that determined compliance checks can reduce alcohol sales to underage youths and, when combined with other activities, might reduce youth consumption of alcohol (2,4,5).

This report is subject to at least four limitations. First, during the study period, other efforts to reduce underage access to alcohol in Concord were conducted (e.g., roving park patrols and surveillance outside retail stores), reducing the likelihood that reduction in alcohol sales to underage youths was associated only with enhanced enforcement. Second, because quarterly compliance checks were instituted for a longer period than mandatory penalties, the contributions of the checks and penalties relative to the decrease in alcohol sales to underage youths were difficult to assess. Third, because statewide compliance checks were conducted by using a convenience sample, statistical comparisons could not be made between compliance check data for Concord and the rest of New Hampshire. Finally, the absence of weighted data from the 2001 New Hampshire YRBS limited the ability to compare recent changes in current alcohol use and binge drinking between Concord and the rest of the state.

State and local governments often lack adequate resources to enforce minimum drinking age laws (6). CPD was able to partially fund its program through a grant from the New Hampshire Department of Justice. Alcohol excise taxes might be another resource for funding enforcement efforts. In addition, raising alcohol taxes is an effective policy intervention for reducing underage drinking and alcohol-related problems (6,7).

The findings in this report support recommendations of the Institute of Medicine in its 2003 report, *Reducing Underage Drinking: A Collective Responsibility* (2). These recommendations call for 1) regular compliance checks; 2) administrative penalties, including fines and license suspensions that increase with each offense; 3)

enhanced media coverage of the purposes and results of compliance checks; and 4) training for alcohol retailers regarding their legal responsibility to avoid selling alcohol to underage youths. These recommendations have been supported by previous studies (4,8,9). In another effort to prevent underage drinking, the New Hampshire state legislature in August 2003 approved a new driver's license that will display photo and driver information vertically for persons aged <21 years and horizontally for persons aged ≥21 years, making it easier for store clerks to identify underage youths.

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Figure 1

FIGURE 1. Percentage of licensees selling alcohol to persons aged <21 years during compliance checks, by month and year — Concord, New Hampshire, October 1999–February 2004

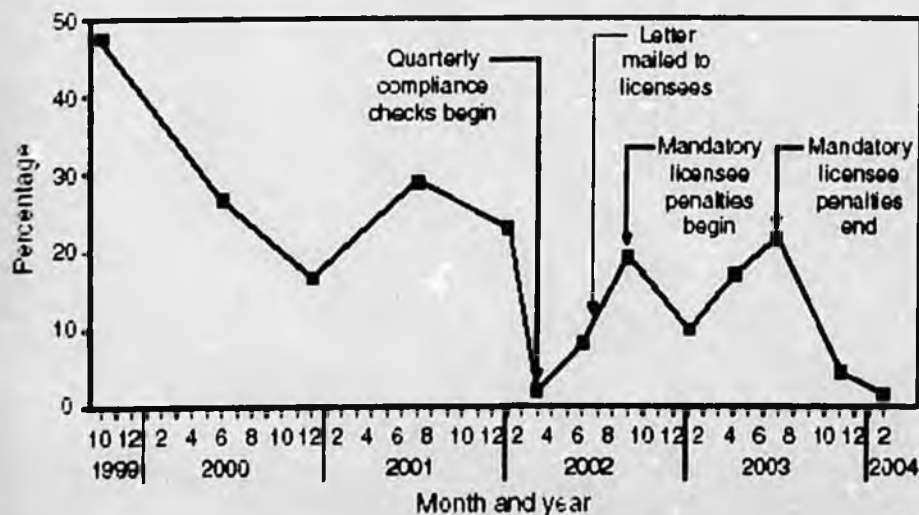
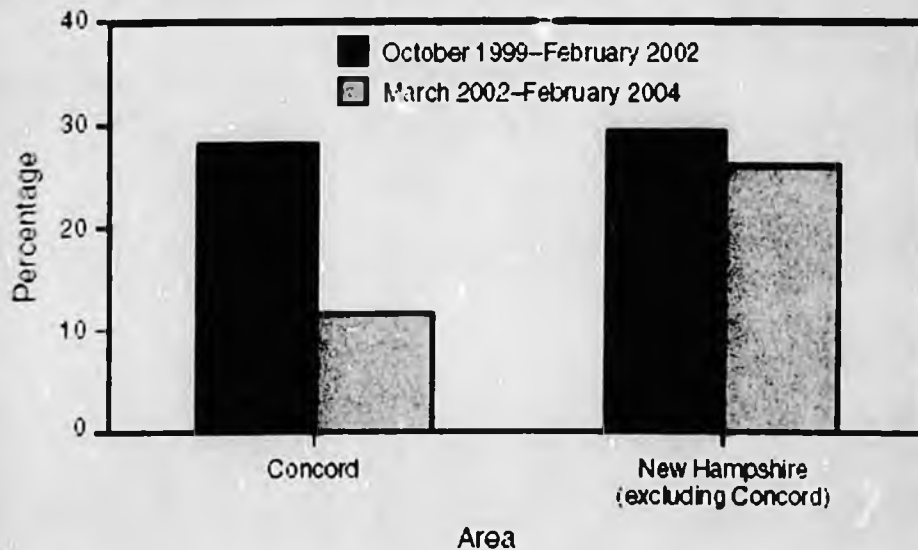


Figure 2

FIGURE 2. Percentage of licensees selling alcohol to persons aged <21 years during compliance checks before and during enhanced enforcement, by area — Concord, New Hampshire, October 1999–February 2004



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Table

TABLE. Mandatory penalties to licensees for sale of alcohol to persons aged <21 years during compliance checks, by severity — Concord, New Hampshire, August 2002–July 2003

Offense	Fine/Penalty	License/Suspension (days)
First	\$250	3
Second	\$500	5
Third	\$750	10
Fourth	\$1,500	30
Fifth	Revocation of license	

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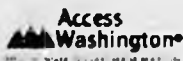
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Violation Type	1st Violation	2nd Violation in a two-year window	3rd Violation in a two-year window	4th Violation in a two-year window
Sale or service to minor: Sale or service of alcohol to a person under 21 years of age.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
Minor frequenting a tavern, lounge, or other age restricted area.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license
Sale or service to apparently intoxicated person: Sale or service of alcohol to, or permitting consumption or possession by, an apparently intoxicated person.	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
Disorderly conduct by licensee or employee, or permitting on premises.	5 day suspension or \$500 monetary option	5 day suspension or \$2,500 monetary option	10 day suspension or \$5,000 monetary option	Cancellation of license
Criminal conduct: Permitting or engaging in criminal conduct.	5 day suspension or \$500 monetary option	7 day suspension with no monetary option	30 day suspension with no monetary option	Cancellation of license

[Statutory Authority: RCW 66.08.030, 66.24.010, 66.24.120, 03-09-015, § 314-29-020, filed 4/4/03, effective 5/5/03]



Washington State Liquor Control Board



Thursday, February 28, 2008

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VIOLATIONS

The following are orders issued by the Washington State Liquor Control Board, disposing charges of violations by liquor license holders.

December 2007

3D AM PM NOBHILL 1801 E NOB HILL BLVD YAKIMA WA 98901-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
APPLE BARREL SHELL GAS 2021 FRUITVALE BLVD YAKIMA WA 98902-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
AZTECA RESTAURANT 153 SW 157TH ST BURIEN WA 98166-2539	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
BAR 14 RANCH HOUSE RESTAURANT 1800 CANYON RD ELLENSBURG WA 98926-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
BIG KMART #4155 6606 N DIVISION ST SPOKANE WA 99208-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
CANYON'S EDGE WINERY 265 SIX PRONG EXT MABTON WA 98935-9469	Violation: FAIL TO FILE MONTHLY LIQUOR TAX REPORTS Paid penalty in the amount of: \$250
CAPITOL LAKE GROCERY 511 S CAPITOL WAY OLYMPIA WA 98501-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
CEDARS RESTAURANT AND LOUNGE 2019 MAIN ST FERNDALE WA 98248-0000	Violation: ALLOWING INTOXICATED PERSON TO CONSUME Paid penalty in the amount of: \$500
COLEMAN OIL COMPANY 407 S 2ND OKANOGAN WA 98840-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
CONNIE'S BRICKHOUSE	Violation:

1213 56TH ST S TACOMA WA 98408-3407	SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
COUNTRY BOY MARKET 5522 MC KINLEY AVE E TACOMA WA 98404-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
COUNTRY GENTLEMAN RESTAURANT AND CATERING 9221 W CLEARWATER STE A KENNEWICK WA 99336-8522	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
DOMINIC'S RED APPLE MARKET 9627 DES MOINES MEMORIAL DR SEATTLE WA 98108-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
DON'S EZ MART 1408 BETHEL ST NE OLYMPIA WA 98506-4309	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
DRAGONFLY BISTRO 633 A FRONT ST LEAVENWORTH WA 98826-1346	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
EL TORO-PARKLAND 13719 PACIFIC AVE S TACOMA WA 98444-0000	Violation: ALLOWING INTOXICATED PERSON TO CONSUME Paid penalty in the amount of: \$500
FAMILY FOODS 1503 NOB HILL BLVD E YAKIMA WA 98901-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
FRANKIE'S SPORTS BAR GRILL & LOUNGE 3663 PACIFIC AVE SE STE D OLYMPIA WA 98501-2122	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$3000
FRATERNAL ORDER OF EAGLES CLE ELUM AERIE 649 220 PENNSYLVANIA AVE CLE ELUM WA 98922-0000	Violation: CLUB LIQUOR SALES TO PUBLIC Paid penalty in the amount of: \$500
FUGAZZI 1 N POST ST SPOKANE WA 99201-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
GOLDEN DRAGON III 813 YELM AVE W YELM WA 98597-9412	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350

HAPPY TERIYAKI #3 1107 COLLEGE ST SE LACEY WA 98503-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
IMPROMPTU WINE AND ART BAR 4235 E MADISON ST SEATTLE WA 98112-3236	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
JACK-SON'S SPORTS BAR & RESTAURANT 3320 KENNEWICK AVE KENNEWICK WA 99336-0000	Violation: LICENSEE/EMPLOYEE INTOXICATED ON-PREMISES Paid penalty in the amount of: \$500
JC'S MARKET 11801 NE 160TH #A BOTHELL WA 98011-4106	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
JINS MART 500 GRAND AVE S PULLMAN WA 99163-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
KNARR AND SHIPWRECK LOUNGE 5633 UNIVERSITY WAY NE SEATTLE WA 98105-2620	Violation: ALLOWING INTOXICATED PERSON TO CONSUME Paid penalty in the amount of: \$500
KYOTO JAPANESE RESTAURANT 115 N SAMISH WAY BELLINGHAM WA 98226-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
LACEY FOOD MART 4603 LACEY BLVD LACEY WA 98503-	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
LITTLE TOKYO 2915 NEW MARKET ST BELLINGHAM WA 98226-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
M & J FOOD MART 427 E SMITH ST KENT WA 98030-4545	Violation: SALE TO APPARENTLY INTOXICATED PERSON Paid penalty in the amount of: \$400
MACKEY'S 15201 VAIL RD YELM WA 98597-9563	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
MAIN STREET BAR & GRILL 2005 MAIN ST FERNDALE WA 98248-9468	Violation: ALLOWING INTOXICATED PERSON TO CONSUME Paid penalty in the amount of: \$600
MAX DALES 2030 RIVERSIDE DR	Violation: ALLOWING INTOXICATED PERSON

MOUNT VERNON WA 98273-5408	TO CONSUME Paid penalty in the amount of: \$2500
MCCABES AMERICAN MUSIC CAFE 2611 PACIFIC AVE TACOMA WA 98402-2804	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
MEZCAL FAMILY MEXICAN RESTAURANT 818 MAIN ST BUCKLEY WA 98321-	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$750
PETE'S 28 N 2ND ST YAKIMA WA 98901-2612	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$500
ROYAL BEAR PUB & EATERY 35731 W VALLEY HWY ALGONA WA 98092-4457	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$400
SHELTON MOBIL 2235 OLYMPIC HWY N SHELTON WA 98584-2954	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
SOUTHPORT CAFE AT OPA BEPPO'S 1083 LAKE WASHINGTON BLVD #30 RENTON WA 98056-6417	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
STAR SHELL FOOD MART 23953 104TH AVE SE KENT WA 98031-3312	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$300
SUN JIN RESTAURANT & BAR 19711 SMOKEY POINT BLVD ARLINGTON WA 98223-8237	Violation: POSSESSION OF LIQUOR BY AN INTOXICATED PERSON Paid penalty in the amount of: \$500
THE MOONRAKER 23803 104TH SE KENT WA 98031-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$350
THE OWL 'N THISTLE 808 POST AVE SEATTLE WA 98104-0000	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$400
THE VAULT 425 FRANKLIN ST OLYMPIA WA 98501-1119	Violation: CONDUCT (DISORDERLY/LEWD/OTHER) Paid penalty in the amount of: \$1400
TIKI BOB'S CANTINA 166 S KING ST	Violation: ALLOWING MINORS TO

SEATTLE WA 98104-2825	FREQUENT/CONSUME Paid penalty in the amount of: \$350
TRADER JOE'S 15868 FIRST AVE S BURIEN WA 98103-	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500
WALLINGFORD PIZZA HOUSE 2109 N 45TH ST SEATTLE WA 98103-0000	Violation: CURRENT LICENSE NOT POSTED ON PREMISES Paid penalty in the amount of: \$100
YELLOW CHURCH CAFE 111 S PEARL ELLENSBURG WA 98926-3328	Violation: SALE/FURNISHING TO PERSON(S) UNDER 21 YOA Paid penalty in the amount of: \$500

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Washington State Liquor Control Board
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SB

247

Alaska State Legislature

Senator Hollis French, Chair
State Capitol, Room 417
Juneau, Alaska 99801
Phone: (907) 465-3892
Fax: (907) 465-6595



Committee Members:
Senator Charlie Huggins
Senator Bill Wielechowski
Senator Lesil McGuire
Senator Gene Therriault

Senate Judiciary Committee

MEMORANDUM

Date: February 11, 2008

TO: Jerry Luckhaupt, Leg. Legal

FROM: Cindy Smith, 465-6641 *C. Smith*

RE: CS for SB 247

Please prepare an "as passed" version of SB247, using 25-LS1157\E and including the amendment, attached.

Please call me if you have any questions!