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Alcohol Beverage Control Enforcement: Legal Research Report

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**ALCOHOL BEVERAGE CONTROL ENFORCEMENT:
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ALCOHOL BEVERAGE CONTROL ENFORCEMENT

Legal Research Report

Introduction

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

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

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

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

PLEASE NOTE:

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

ATTEMPTED PURCHASE/PURCHASE OF ALCOHOL BY MINORS

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

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

- **Employment**—1 State permits minors to purchase alcohol if in connection with their employment.
- **Student**—2 States allow minors to purchase alcohol if in connection with being a student or for educational purposes.
- **Religious services**—1 State permits minors to purchase alcohol if in connection with religious services.
- **Medical treatment**—2 States permit minors to purchase alcohol if in connection with medical treatment.
- **Parent, guardian, or custodian consent or presence**—2 States allow minors to purchase alcohol in the presence of, accompanied by, or with the consent of a parent, guardian, or custodian.
- **Spouse consent or presence**—1 State allows minors to purchase alcohol in the presence of or with the consent of their legal-aged spouse.
- **Law enforcement**—13 States permit minors to purchase alcohol in connection with an investigation or “sting” operation conducted in conjunction with law enforcement officials (and, in several States, licensees or employers, see footnotes in the chart below) to identify illegal alcohol sales. This exception often requires parental consent and specifies a minimum age at which minors can

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

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

participate; many States require minors to be at least 18 years old. Many States may have this exception as part of an administrative decision even though there is no statutory provision. As noted above, our analysis does not include such decisions.

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

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

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

Attempted Purchase/Purchase of Alcohol by Minors

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

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

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

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

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

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

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

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

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

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

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

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

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

POSSESSION OF ALCOHOL BY MINORS

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

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

Exceptions found in the chart below are defined as follows:

- **Employment**—45 States permit minors to possess alcohol in connection with their employment. One State, Wyoming, also allows possession by minors who are licensees.
- **Student**—6 States permit minors to possess alcohol in connection with being a student or for educational purposes (often specifically linked to culinary schools).
- **Religious services**—18 States allow minors to possess alcohol in connection with religious services.
- **Medical treatment**—14 States allow minors to possess alcohol in connection with medical treatment.
- **Parent, guardian, or custodian consent or presence**—33 States permit minors to possess alcohol in the presence of, accompanied by, or with the consent of a parent, guardian, or custodian. States vary widely in terms of which relatives must be present for the exception to apply and in what circumstances. For example, Massachusetts allows possession by minors if they are “accompanied by parent or legal guardian”; Delaware allows possession in the “private home” of any “members of the same family”; Oregon allows possession of alcohol in a “private residence . . . accompanied by parent or guardian . . . with [his or her] consent,” etc.
- **Spouse consent or presence**—9 States permit minors to possess alcohol in the presence of or with the consent of their legal-aged spouse.

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

- **Any private location**—10 States allow minors to possess alcohol in any private location (including any private residence or venue). This exception is often implied by statutory provisions that indicate the converse – that is, a State prohibits minors from possessing alcohol in any *public* place.
- **Private residence**—7 States allow minors to possess alcohol only in a private residence.

- **Only minor’s, parent’s, or guardian’s home**—4 States permit minors to possess alcohol only in the minor’s, parent’s, or guardian’s home or primary residence.
- **Law enforcement**—9 States permit minors to possess alcohol in connection with an investigation or “sting” operation conducted by law enforcement officials (and, in several States, licensees or employers, see footnotes below) to identify illegal alcohol sales. This exception often requires parental consent and specifies a minimum age at which minors can participate; many States require minors to be at least 18 years old. Many States may have this exception as part of an administrative decision even though there is no statutory provision. As noted above, our analysis does not include such decisions.

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

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

Possession of Alcohol by Minors

	Possession by Minors	EXCEPTIONS									
		Employment	Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor’s/Parent’s/Guardian’s Home	Law Enforcement
Alabama	√	√									
Alaska	√				√	√	√				
Arizona	√	√		√							
Arkansas	√	√									
California ¹³	√	√				√		√			
Colorado ¹⁴	√			√	√	√		√			
Connecticut	√	√			√	√	√	√			
Delaware ¹⁵	√	√		√		√			√		

¹³ California’s exception allows possession when a minor is making a delivery by order of a parent, relative, or another adult designated by the parent.
¹⁴ Colorado’s exception requires the knowledge and consent of the owner of the private property when minors possess or consume alcohol (in addition to the consent or presence of a parent or guardian). Also, it is an affirmative defense to illegal possession or consumption that existence of ethyl alcohol in a minor’s body is due solely to ingested confectionery or a beverage that contained less than 0.5 percent of ethyl alcohol by weight.
¹⁵ Delaware’s exception includes “members of the same family” and allows possession or consumption in the “private home of any of said members.”

	Possession by Minors	EXCEPTIONS									
		Employment	Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor's/Parent's/Guardian's Home	Law Enforcement
District of Columbia	√	√									
Florida	√	√	√								
Georgia	√	√		√	√	√				√	
Hawaii	√	√		√	√	√		√			√
Idaho ¹⁶	√	√				√			√		
Illinois ¹⁷	√	√		√		√		√			√
Indiana	√	√									
Iowa	√	√			√	√			√		
Kansas ¹⁸	√	√				√					√
Kentucky	√	√									
Louisiana	√	√		√	√	√	√		√		
Maine	√	√				√			√		
Maryland ¹⁹	√	√		√		√			√		
Massachusetts	√	√				√					
Michigan ²⁰	√	√		√							√
Minnesota	√	√				√				√	
Mississippi	√	√				√	√	√			
Missouri	√	√			√	√					
Montana	√	√		√	√	√					
Nebraska	√	√		√	√					√	√
Nevada	√	√		√	√	√	√	√			
New Hampshire	√	√									
New Jersey ²¹	√	√	√	√		√					
New Mexico	√	√				√		√			
New York	√	√	√			√					
North Carolina	√										
North Dakota	√	√									
Ohio	√			√	√	√	√				
Oklahoma	√	√				√		√			
Oregon ²²	√			√		√			√		√

¹⁶ Idaho's exception allows possession of beer or wine when the minor is making a delivery by order of his or her parent.

¹⁷ Illinois's exception allows minors to purchase or possess if they are part of a licensee's "sting operation."

¹⁸ Kansas's exception allows minors to "violate the provisions of the Kansas Liquor Control Act" if they are under the direction of a licensee's self-compliance program.

¹⁹ Maryland's exception allows possession or consumption of alcohol by minors if an adult member of their immediate family allows it.

²⁰ Michigan's exception allows minors to "purchase or receive" alcohol as a part of an undercover operation by direction of an employer.

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

²² Oregon's exception indicates that its prohibitions do not apply to minors who are acting under the direction of a licensee for the purpose of investigating possible violations by the licensee's employees of laws prohibiting sales to minors.

	Possession by Minors	EXCEPTIONS									
		Employment	Student	Religious Services	Medical Treatment	Parent/ Guardian/ Custodian/ Consent/ Presence	Spouse Consent/ Presence	Any Private Location	Private Residence	Only Minor's/ Parent's/ Guardian's Home	Law Enforce- ment
Pennsylvania	√			√							√
Rhode Island	√	√									
South Carolina	√	√	√	√		√				√	
South Dakota	√	√			√	√	√				
Tennessee	√	√									
Texas	√	√				√	√				√
Utah	√	√									
Vermont	√	√	√								
Virginia	√	√				√					
Washington	√	√	√	√	√	√					
West Virginia	√	√									√
Wisconsin	√	√				√	√				
Wyoming ²³	√	√				√		√			
State Totals	51	45	6	18	14	33	9	10	7	4	9

²³ Wyoming's exception allows a minor licensee to possess alcohol.

CONSUMPTION OF ALCOHOL BY MINORS

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

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

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

Consumption of Alcohol by Minors

	Consumption by Minors	EXCEPTIONS								
		Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor's/Parent's/Guardian's Home	Law Enforcement
Alabama	√									
Alaska	√			√	√	√				
Arizona	√		√	√						
Arkansas										
California	√									
Colorado ²⁴	√		√	√	√		√			
Connecticut										
Delaware ²⁵	√		√		√			√		
District of Columbia	√									
Florida										
Georgia										
Hawaii										

²⁴ Colorado's exception requires the knowledge and consent of the owner of the private property when minors possess or consume alcohol (in addition to the consent or presence of a parent or guardian). Also, it is an affirmative defense to illegal possession or consumption that existence of ethyl alcohol in minor's body is due solely to ingested confectionery or a beverage that contained less than 0.5 percent of ethyl alcohol by weight.

²⁵ Delaware's exception includes "members of the same family" and allows possession or consumption of alcohol by minors in the "private home of any of said members."

	Consumption by Minors	EXCEPTIONS								
		Student	Religious Services	Medical Treatment	Parent/Guardian/Custodian Consent/Presence	Spouse Consent/Presence	Any Private Location	Private Residence	Only Minor's/Parent's/Guardian's Home	Law Enforcement
Idaho	√									
Illinois	√		√		√			√		
Indiana	√									
Iowa										
Kansas ²⁶	√				√					√
Kentucky										
Louisiana	√		√	√	√	√		√		
Maine	√				√			√		
Maryland ²⁷	√		√		√			√		
Massachusetts										
Michigan	√	√	√							
Minnesota	√				√				√	
Mississippi										
Missouri										
Montana	√		√	√	√					
Nebraska	√		√						√	√
Nevada	√									
New Hampshire										
New Jersey ²⁸	√		√		√					
New Mexico										
New York	√	√			√					
North Carolina	√									
North Dakota	√		√							
Ohio	√		√	√	√	√				
Oklahoma	√				√					
Oregon	√		√		√			√		
Pennsylvania	√		√							
Rhode Island	√									
South Carolina										
South Dakota	√		√	√	√	√				
Tennessee	√		√							
Texas	√				√	√				
Utah	√			√						
Vermont	√	√								
Virginia										
Washington	√		√	√	√					

²⁶ Kansas’s exception allows minors to “violate the provisions of the Kansas Liquor Control Act” if they are under the direction of a licensee’s self-compliance program.

²⁷ Maryland’s exception allows possession or consumption of alcohol by minors if an adult member of their immediate family allows it.

²⁸ New Jersey’s exception allows possession or consumption of alcohol by minors with the permission and in the presence of a relative 21 or older.

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

USE OF FALSE IDENTIFICATION CARDS

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

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

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

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

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

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

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

Use of False Identification Cards

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

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

FURNISHING ALCOHOL TO MINORS

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

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

The categories of exceptions applied to minor possession, consumption, and purchase of alcohol also apply to those who provide alcohol to minors.²⁹ States do not always apply the same exception to both the provider and the minor. California, for example, permits minors to possess alcohol in private venues, but it is illegal for anyone to provide alcohol to minors in either public or private settings. In certain situations, courts may conclude that an exception for the provider should be implied from that granted to the minor even if it is not explicitly included in the statutes (and vice versa). This is particularly relevant to exceptions for the parents and relatives, and for employment. For example, a court might conclude that if a law that explicitly allows a minor to possess alcohol in the presence of his or her parent, the parent is permitted to provide it to the child.

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

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

²⁹ Note that these exceptions apply to noncommercial furnishers of alcohol. States that have these exceptions, by implication, prohibit noncommercial service of alcohol to minors. As noted above, States without an exception listed in our chart may permit noncommercial furnishing to minors generally.

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

Furnishing Alcohol to Minors

	Furnishing Alcohol to Minors	EXCEPTIONS				
		Parent/Guardian	Legal-aged Spouse	Religious Services	Medical Treatment	Education
Alabama	√					
Alaska ³⁰	√	√	√		√	
Arizona	√					
Arkansas ³¹	√	√	√	√		
California	√					
Colorado	√					
Connecticut	√	√	√		√	
Delaware	√	√		√		
District of Columbia	√					
Florida	√					√
Georgia	√					
Hawaii	√					
Idaho	√					
Illinois	√			√		
Indiana	√					
Iowa	√	√			√	
Kansas ³²	√	√				
Kentucky	√	√				
Louisiana	√					
Maine	√	√				
Maryland	√					
Massachusetts	√	√				
Michigan	√					
Minnesota	√	√				
Mississippi	√					
Missouri	√	√				
Montana ³³	√	√		√	√	
Nebraska	√					

³⁰Alaska’s statute includes references to “legal spouse” rather than “legal-aged spouse.” The exceptions apply only off the licensed premises.

³¹ Arkansas’s statute refers to “family members” but does not specify which family members.

³² In Kansas, parents or legal guardians may provide only cereal malt beverage to their minor child or ward.

³³ In Montana, §16-6-305 1(b) specifies that “a parent, guardian, or other person may not knowingly sell or otherwise provide an alcoholic beverage in an intoxicating quantity to a person under 21 years of age.” Section 16-6-305 1(c) defines “intoxicating quantity” as “a quantity of an alcoholic beverage that is sufficient to produce: (i) a blood, breath, or urine alcohol concentration in excess of 0.05; or (ii) substantial or visible mental or physical impairment.”

	Furnishing Alcohol to Minors	EXCEPTIONS				
		Parent/Guardian	Legal-aged Spouse	Religious Services	Medical Treatment	Education
Nevada	√	√			√	
New Hampshire	√					
New Jersey	√					
New Mexico	√	√				
New York	√					√
North Carolina	√					
North Dakota	√					
Ohio	√	√	√	√	√	
Oklahoma	√					
Oregon	√	√				
Pennsylvania	√			√		
Rhode Island	√					
South Carolina	√	√	√	√		√
South Dakota	√	√	√		√	
Tennessee	√					
Texas	√					
Utah	√	√			√	
Vermont	√					
Virginia	√				√	
Washington	√	√		√	√	
West Virginia ³⁴	√	√	√			
Wisconsin	√	√	√	√		
Wyoming	√	√			√	
State Totals	51	23	8	9	11	3

³⁴ In West Virginia, both §60-3-22a and §60-3A-24 state that “Any person who knowingly buys for, gives to or furnishes to anyone under the age of twenty-one to whom he or she is not related by blood or marriage any liquor from whatever source, is guilty of a misdemeanor....”

FURNISHING ALCOHOL TO INTOXICATED INDIVIDUALS

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

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

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

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

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

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

Furnishing Alcohol to Intoxicated Individuals

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

	Furnishing Alcohol to Intoxicated Individuals
Hawaii	√
Idaho	√
Illinois	√
Indiana	√
Iowa	√
Kansas	√
Kentucky	√
Louisiana	√
Maine	√
Maryland	√
Massachusetts	√
Michigan	√
Minnesota	√
Mississippi	√
Missouri	√
Montana	√
Nebraska	√
Nevada	
New Hampshire	√
New Jersey	√
New Mexico	√
New York	√
North Carolina	√
North Dakota	√
Ohio	√
Oklahoma	√
Oregon	√
Pennsylvania	√
Rhode Island	√
South Carolina	√
South Dakota	√
Tennessee	√
Texas	√
Utah	√
Vermont	√
Virginia	√
Washington	√
West Virginia	√
Wisconsin	√
Wyoming ³⁵	
State Totals	48

³⁵ In Wyoming, §12-5-301 states that “No order shall be received from nor delivery made to a person under twenty-one (21) years of age or an intoxicated person in the area.” Since this provision applies only to “Drive-In Areas,” we did not include this State as having a provision that prohibits furnishing alcohol to intoxicated individuals.

RESPONSIBLE BEVERAGE SERVICE

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

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

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

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

The 11 States that have established voluntary programs provide incentives for retailers to participate in RBS, but do not impose penalties for those who don't. Incentives vary by State and include (1) a defense in dram shop liability lawsuits; (2) mitigation of fines for sales to minors or intoxicated persons; (3) discounts in dram shop liability insurance; and (4) protection against revocation of a license for sales to minors or intoxicated persons.

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

The following variables pertain to mandatory provisions:

- **Employee categories**—Of the 13 States that require mandatory RBS training, 7 require the licensee, managers, and servers to attend; 5 States require only managers and servers to take the training; and 1 requires the licensee and managers to attend.
- **Establishment types**—Eight States require that on-sale and off-sale establishments participate in RBS training; 4 States require only on-premise establishments to participate; and 1 requires only off-premise establishments to receive training.

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

The variables that pertain to voluntary incentives are as follows:

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

Responsible Beverage Service

	RBS Provision		Mandatory States							Voluntary States			
			Categories of Employees Required to Attend RBS Training			Establishment Type Required to Participate		Applies to New or Existing Licenses		Incentives			
			Licensee	Manager	Server	On	Off	New	Existing	Liability Defense	Mitigation of Fines	Discount Ins.	Protection of License
Alabama		√										√	√
Alaska	√			√	√	√	√	√	√				
Arizona		√									√		
Arkansas		√									√		
California													
Colorado													
Connecticut													
Delaware	√		√	√	√	√	√	√	√				
District of Columbia													
Florida		√									√		√
Georgia													
Hawaii													
Idaho													
Illinois		√									√	√	
Indiana		√									√		
Iowa													
Kansas													
Kentucky													
Louisiana	√			√	√	√	√	√	√				

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

KEG REGISTRATION

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

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

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

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

- **Keg definition**—This variable describes the minimum number of gallons a keg must hold to require registration. It varies from 2 to 16 gallons. One State (Rhode Island) does not specify the number of gallons needed to constitute a keg.
- **Purchaser information**—All States that require keg registration require that the purchaser provide his or her name or signature on the registration form. Sixteen States require that the purchaser show some type of identification; 8 States allow the use of a driver’s license, and 2 allow the use of car registration information. In addition, 4 States require that the purchaser specify where the keg will be consumed.
- **Type of identification label**—In most States with keg registration, the ABC will either issue forms to be used to track purchasers or sales (10 States) or specify the forms to be used (13 States). In 3 States, the ABC department or agency must approve the form used by those who sell kegs.

Keg Registration

	Keg Registration Provision	Keg Definition: Minimum Number of Gallons	Purchaser Information				Type of Identification Label		
			Identification	Driver's License	Car Registration	Keg Consumption Location	Form Specified	ABC Issued	Approved by ABC
Alabama									
Alaska									
Arizona									
Arkansas									
California ³⁶	√	6	√	√			√	√	
Colorado									
Connecticut ³⁶	√	6			√		√		
Delaware									
District of Columbia	√	4	√			√		√	
Florida									
Georgia ³⁶	√	2	√	√		√	√		√
Hawaii									
Idaho	√	7.75					√	√	
Illinois									
Indiana	√	7.75					√		
Iowa									
Kansas	√	4	√	√				√	
Kentucky									
Louisiana									
Maine ³⁷	√	7.75	√				√		√
Maryland	√	4	√				√	√	
Massachusetts ³⁸	√	2	√				√	√	
Michigan									
Minnesota	√	7	√						
Mississippi									
Missouri									
Montana									
Nebraska	√	5	√	√			√		
Nevada									
New Hampshire	√	7	√	√			√		
New Jersey									
New Mexico	√	More than 6	√	√			√		
New York									
North Carolina									
North Dakota ³⁹	√	6	√	√					

³⁶ In California, Connecticut, and Georgia, a deposit is required to obtain a keg, but the deposit amount is not specified.

³⁷ In Maine, a deposit of up to \$50 is required.

³⁸ In Massachusetts, there are two types of fees required: (1) a container fee of not less than \$10 for each keg of six or more gallons and not less than \$1 for each container of less than six gallons; (2) a registration fee of \$10 for each keg of six or more gallons and \$4.00 for each keg of less than six gallons.

³⁹ North Dakota is the only state that specifies the type of ink to be used on the keg label.

	Keg Registration Provision	Keg Definition: Minimum Number of Gallons	Purchaser Information				Type of Identification Label		
			Identification	Driver's License	Car Registration	Keg Consumption Location	Form Specified	ABC Issued	Approved by ABC
Ohio ⁴⁰	√	5					√	√	
Oklahoma									
Oregon	√	7	√	√	√		√	√	
Pennsylvania									
Rhode Island	√								
South Carolina									
South Dakota ⁴¹	√	8 or 16							
Tennessee									
Texas									
Utah ⁴²									
Vermont ⁴³	√	5	√						√
Virginia	√	4	√			√		√	
Washington	√	4	√			√		√	
West Virginia									
Wisconsin									
Wyoming									
State Totals	22		16	8	2	4	13	10	3

⁴⁰ In Ohio, keg registration is mandatory only if five or more kegs are being purchased.

⁴¹ South Dakota statute 35-1-11 defines a keg as “an eight or sixteen gallon reusable plastic or metal container.”

⁴² In Utah, “a person may not sell, offer to sell, or otherwise furnish or supply beer to the general public in containers larger than two liters. This does not preclude licensed beer wholesalers from selling, offering to sell, or otherwise furnishing or supplying beer in containers larger than two liters to beer retailers authorized by this title to dispense beer on draft for consumption on the beer retailer’s licensed premises.” In addition, “a person may not purchase or possess beer in containers larger than two liters unless that person is a beer retailer authorized by this title to dispense beer on draft for consumption on the beer retailer’s licensed premises.”

⁴³ In Vermont, a \$25 deposit is required.

FALSE AND MISLEADING ADVERTISING

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

In the typology below, we note the States with laws that expressly prohibit false and misleading advertising. All but 2 of these States (Maryland and Tennessee) cover all types of alcoholic beverages (distilled spirits, wine, and beer). We also list specific references to the type of advertising in which false and misleading claims are prohibited (newspapers and magazines, outdoor advertising, and electronic media). At present, 30 States have policies prohibiting false and misleading advertising.

False and Misleading Advertising

	False and Misleading Provision	Advertising Type			
		Newspapers and Magazines	Outdoor Advertising	Electronic Media	Not Specified
Alabama	√				√
Alaska					
Arizona					
Arkansas					
California					
Colorado					
Connecticut ⁴⁴	√				√
Delaware	√	√	√	√	
District of Columbia	√				√
Florida					
Georgia	√				√
Hawaii					
Idaho	√	√	√	√	
Illinois	√				√
Indiana					
Iowa					
Kansas	√				√
Kentucky	√				√
Louisiana					
Maine					
Maryland ⁴⁵	√				√
Massachusetts	√				√
Michigan ⁴⁴	√				√
Minnesota	√				√
Mississippi ⁴⁴	√				√

⁴⁴ The relevant provisions for Connecticut, Michigan, and Mississippi are found outside the ABC code.

⁴⁵ In Maryland and Tennessee, the provisions apply only to distilled spirits and wine.

	False and Misleading Provision	Advertising Type			
		Newspapers and Magazines	Outdoor Advertising	Electronic Media	Not Specified
Missouri	√				√
Montana					
Nebraska	√				√
Nevada					
New Hampshire	√				√
New Jersey	√				√
New Mexico					
New York ⁴⁶	√				√
North Carolina	√				√
North Dakota					
Ohio					
Oklahoma					
Oregon	√				√
Pennsylvania	√				√
Rhode Island					
South Carolina					
South Dakota					
Tennessee ⁴⁵	√	√			
Texas	√	√	√	√	
Utah	√				√
Vermont	√	√	√	√	
Virginia	√				√
Washington ⁴⁷	√		√		√
West Virginia ⁴⁸	√			√	
Wisconsin					
Wyoming	√				√
State Totals	30	5	5	5	24

⁴⁶ In New York, the provision applies only to package stores.

⁴⁷ Washington has two provisions that relate to false and misleading advertising: one deals with outdoor advertising, and one does not specify the type of advertising.

⁴⁸ Virginia does not allow radio or TV ads for alcoholic beverages. A constitutional issue concerning content-based restrictions and first amendment protections may be relevant here.

ADVERTISING THAT TARGETS MINORS

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

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

- **Reference**—This variable describes how the legal provision defines the audience that is not to be targeted. Nine States use the term “children” while 6 States refer to those “under the legal drinking age.” Fourteen States refer to “minors”, and in Kentucky and New Mexico the audience is not specified.
- **Placement**—Nine States prohibit the placement of alcohol advertisements in school-related locations (this may include schools, universities, school buses, and yearbooks). Three States prohibit advertising near churches, and 3 States prohibit advertisements near playgrounds.
- **Symbols**—States may also restrict the use of symbols that can be depicted in advertisements. Six States prohibit the use of symbols of children; 4 States restrict symbols related to holidays such as Christmas or Easter; and 5 States prohibit the use of toys or other items that might appeal to children.
- **Wording**—Seven States prohibit advertising that “induces” minors to drink; 5 States prohibit advertising that “encourages” minors to drink; and 8 States prohibit advertising that “makes a special appeal” to minors. In some States, more than one of these phrases may be used to prohibit advertising that targets minors.

Advertising That Targets Minors

	Targets Minors	Reference			Placement			Symbols			Wording		
		Children	Under Legal Drinking Age	Minors	School Related	Churches	Play-grounds	Symbols of Children	Holidays	Toys	Induces	Encourages	Makes Special Appeal
Alabama	√			√									√
Alaska													
Arizona													
Arkansas													
California ⁴⁹	√			√						√		√	
Colorado													
Connecticut	√	√						√	√	√			
Delaware	√			√							√		
District of Columbia ⁵⁰	√	√							√	√			√
Florida													
Georgia	√		√										
Hawaii													
Idaho													
Illinois	√	√											√
Indiana													
Iowa													
Kansas													
Kentucky ⁵¹	√												
Louisiana													
Maine	√			√							√		
Maryland													
Massachusetts													
Michigan ⁵²	√			√									
Minnesota	√	√			√			√		√			√
Mississippi ⁵³	√	√											
Missouri													
Montana													
Nebraska	√	√		√				√					
Nevada													
New Hampshire	√		√	√	√						√		
New Jersey	√	√		√				√			√		
New Mexico	√				√								
New York													
North	√		√		√						√		

⁴⁹ California includes language that prohibits “the use in any advertisement of alcoholic beverages of any subject matter, language, or slogan addressed to and intended to encourage minors to drink the alcoholic beverages.”

⁵⁰ The District of Columbia prohibits “the use of any picture or illustration depicting a child or immature person....”

⁵¹ Kentucky has a general alcohol advertising provision that prohibits scenes of family or the home.

⁵² Michigan has a general alcohol advertising provision that prohibits any references to minors on alcohol cartoons or containers.

⁵³ Mississippi has a provision that prohibits TV ads five minutes before or after a program that consists primarily of animated material intended for children.

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

HAPPY HOURS AND DRINK SPECIALS

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

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

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

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

Happy Hours and Drink Specials

	Happy Hours and/or Drink Specials	Free Beverages	Additional Servings	Reduced Price - Specified Day or Time	Unlimited Beverages – Fixed Price, Fixed Time	Increased Volume	Prizes
Alabama	√			√	√		
Alaska	√	√	√	√	√		√
Arizona	√		√		√		
Arkansas							
California							
Colorado							
Connecticut	√		√		√		√
Delaware	√			√	√		√
District of Columbia							
Florida							
Georgia							
Hawaii							
Idaho							
Illinois	√		√	√	√	√	√
Indiana	√		√	√			
Iowa							
Kansas	√	√		√	√	√	√
Kentucky							
Louisiana ⁵⁴	√				√		
Maine	√	√	√		√		√
Maryland							
Massachusetts	√	√	√	√	√	√	√
Michigan	√				√		√
Minnesota							
Mississippi							
Missouri							
Montana							
Nebraska	√				√		
Nevada							
New Hampshire							
New Jersey	√				√	√	√
New Mexico	√	√	√	√	√		√
New York	√	√			√		
North Carolina	√			√	√		
North Dakota							
Ohio	√		√	√	√	√	√
Oklahoma	√		√	√	√	√	√
Oregon ⁵⁵							
Pennsylvania	√		√	√	√	√	
Rhode Island	√	√	√	√	√	√	√

⁵⁴ In Louisiana, selling or serving alcoholic beverages at a fixed price after 10 p.m. is prohibited.

⁵⁵ Although Oregon has no happy hour statute per se, it does have a provision that prohibits providing alcohol as prizes.

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

Conclusion

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

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

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

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

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