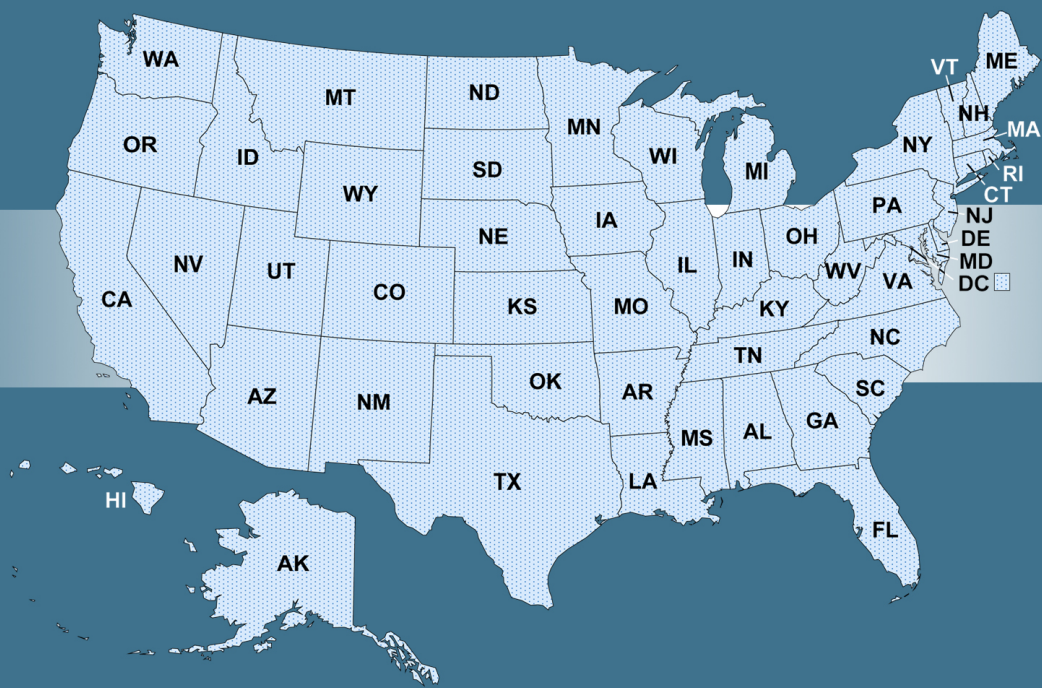


# STATE PERFORMANCE & BEST PRACTICES

*for the Prevention and Reduction of Underage Drinking*

2018



**SAMHSA**  
Substance Abuse and Mental Health  
Services Administration

The *State Performance and Best Practices* is required by the Sober Truth on Preventing (STOP) Underage Drinking Act (Pub. L. 109-422), which was enacted by Congress in 2006 and reauthorized in December 2016 as part of the 21st Century Cures Act (Pub. L. 114-255). The STOP Act directs the Secretary of the Department of Health and Human Services (HHS), working with the Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD), to develop a set of performance measures for evaluating the states' use of best practices in preventing underage drinking, and to consider a set of enumerated categories in doing so. The STOP Act also requires an annual report on each state's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.

This *State Performance and Best Practices*, and the 51 individual State Reports, were prepared by the ICCPUD, which is chaired by the Assistant Secretary for Mental Health and Substance Use, U.S. Department of Health and Human Services.

**Time period covered by the 2018 *State Performance and Best Practices*:** The 2018 version primarily includes data from calendar year 2017. The data on state legal policies reflects the state of the law as of January 1, 2017. The state survey data was collected in 2017, and is drawn from the most recent 12-month period in which the states maintained the data.

#### **Recommended Citation**

U.S. Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD). (2018). *State Performance and Best Practices for the Prevention and Reduction of Underage Drinking*.

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## Introduction

The harmful consequences of underage drinking are widespread and affect individuals under age 21 as well as their families and their communities. The role of the states in preventing underage drinking is critical, particularly as regulators of the alcohol market. State legislatures adopt laws that regulate, directly or indirectly, underage alcohol use and availability in many ways, including the use of false identification, drivers licenses for young people, and adult responsibility for underage access. Enforcement of underage drinking laws and regulations takes place at the state and local level. State substance abuse agencies develop and support prevention, treatment, and recovery programs and activities in communities and schools. In many states and cities, public health agencies are involved in monitoring alcohol and other drug use, and are helping design and evaluate effective community-based prevention strategies as well.

Congress recognized the essential function that states play in the national efforts to reduce underage drinking when it enacted the Sober Truth on Preventing Underage Drinking (STOP) Act (Pub. Law 109-422; reauthorized in 2016 as part of the 21<sup>st</sup> Century Cures Act [Pub. Law 114-255]). The Act’s preamble includes this statement of the sense of Congress:

Alcohol is a unique product and should be regulated differently than other products by the States and Federal Government. States have primary authority to regulate alcohol distribution and sale, and the Federal Government should support and supplement these State efforts. States also have a responsibility to fight youth access to alcohol and reduce underage drinking. Continued State regulation and licensing of the manufacture, importation, sale, distribution, transportation, and storage of alcoholic beverages are ... critical to ... preventing illegal access to alcohol by persons under 21 years of age.

This document—*State Performance and Best Practices for the Prevention and Reduction of Underage Drinking*—evaluates states’ use of best practices in preventing underage drinking, as required by the STOP Act. Chapter I of the document describes 26 state legal policies deemed to be best practices in preventing and reducing underage drinking and lists the research supporting their effectiveness. In Chapter II, the role of enforcement in successfully implementing these policies is discussed. Chapter III presents detailed summary data on the states’ enforcement and prevention activities, taken from an annual survey of the states. Finally, Chapter IV provides charts showing state performance as measured by federal data for six key areas: (1) underage past-month alcohol use; (2) past-month binge alcohol use; (3) perception of risk; (4) prevalence of alcohol use disorder; (5) treatment for alcohol use disorder; and (6) traffic crash fatalities involving underage drivers with a blood alcohol content (BAC) greater than zero.

### ***The Sober Truth on Preventing Underage Drinking (STOP) Act***

The STOP Act directs the Secretary of the Department of Health and Human Services (HHS), working with the Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD), to develop a set of performance measures for evaluating the states’ use of best practices in preventing underage drinking (Section 2[c][2]). The Act requires the following categories to be considered in developing such measures:

“(I) Whether or not the State has comprehensive anti-underage drinking laws such as for the illegal sale, purchase, attempt to purchase, consumption, or possession of alcohol; illegal use of fraudulent ID; illegal furnishing

or obtaining of alcohol for an individual under 21 years; the degree of strictness of the penalties for such offenses; and the prevalence of the enforcement of each of these infractions.

“(II) Whether or not the State has comprehensive liability statutes pertaining to underage access to alcohol such as dram shop, social host, and house party laws, and the prevalence of enforcement of each of these laws.

“(III) Whether or not the State encourages and conducts comprehensive enforcement efforts to prevent underage access to alcohol at retail outlets, such as random compliance checks and shoulder tap programs, and the number of compliance checks within alcohol retail outlets measured against the number of total alcohol retail outlets in each State, and the result of such checks.

“(IV) Whether or not the State encourages training on the proper selling and serving of alcohol for all sellers and servers of alcohol as a condition of employment.

“(V) Whether or not the State has policies and regulations with regard to direct sales to consumers and home delivery of alcoholic beverages.

“(VI) Whether or not the State has programs or laws to deter adults from purchasing alcohol for minors; and the number of adults targeted by these programs.

“(VII) Whether or not the State has programs targeted to youths, parents, and caregivers to deter underage drinking; and the number of individuals served by these programs.

“(VIII) Whether or not the State has enacted graduated drivers licenses and the extent of those provisions.

“(IX) The amount that the State invests, per youth capita, on the prevention of underage drinking, further broken down by the amount spent on--

“(aa) compliance check programs in retail outlets, including providing technology to prevent and detect the use of false identification by minors to make alcohol purchases;

“(bb) checkpoints and saturation patrols that include the goal of reducing and deterring underage drinking;

“(cc) community-based, school-based, and higher-education-based programs to prevent underage drinking;

“(dd) underage drinking prevention programs that target youth within the juvenile justice and child welfare systems; and

“(ee) other State efforts or programs as deemed appropriate.”

To meet this requirement, the *State Performance and Best Practices* identifies 26 policies that are deemed best practices and provides a summary of the current status of adoption of these measures across the states.. Further, it summarizes state and District of Columbia (hereinafter collectively referred to as “the states”) responses to an annual survey about underage drinking enforcement practices, prevention programs, and expenditures.

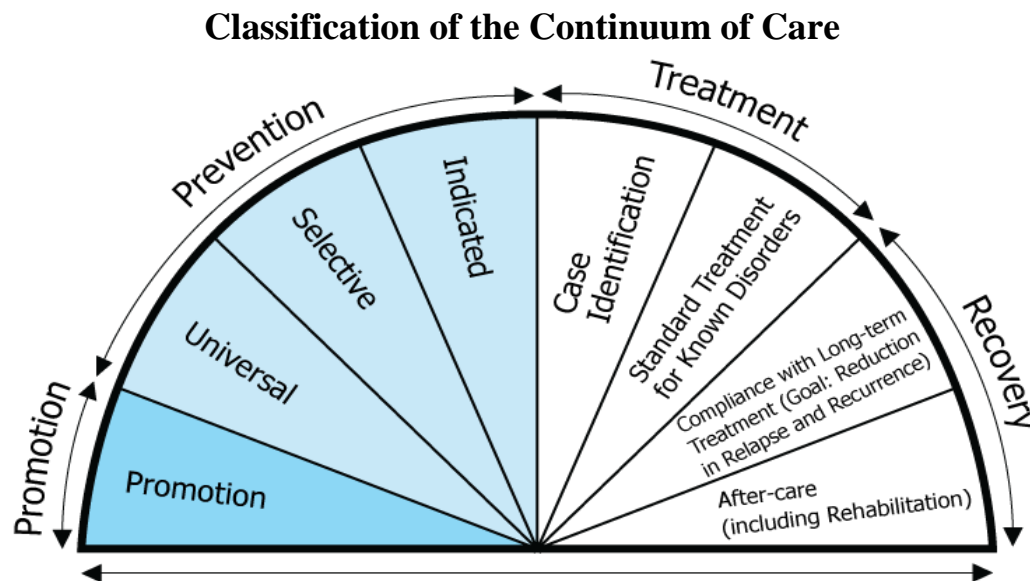
The STOP Act also requires an annual report on each state's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.<sup>1</sup> To meet this requirement, a report has been created for each of the states; the 2018 State Reports are available at [stopalcoholabuse.gov](http://stopalcoholabuse.gov).

The *State Performance and Best Practices* is intended to help put the 51 individual State Reports in a national context.

### ***Prevention and the Continuum of Care***

The STOP Act provides guidelines for evaluating states' efforts to prevent and reduce underage drinking. However, prevention exists as part of a continuum of care that also includes treatment and recovery support for those youth who meet the diagnostic criteria for having a serious alcohol use disorder. As formulated by the Institute of Medicine (IOM), the continuum of care model (IOM, 1994; National Research Council [NRC] & IOM, 2009; Substance Abuse and Mental Health Services Administration [SAMHSA], 2018) encompasses the following elements:

- **Promotional** strategies to (1) create conditions supportive of behavioral health, and (2) to reinforce the entire continuum of behavioral health services;
- **Prevention** interventions to prevent or reduce the risk of developing a behavioral health problem;
- **Treatment** services for those diagnosed with substance use or another disorder; and
- **Recovery** services to support the ability of individuals in recovery to live productive lives and to continue abstaining from substance use.



Source: <https://www.samhsa.gov/prevention>

<sup>1</sup> The STOP Act also requires the Secretary and ICCPUD to produce an annual Report to Congress on the Prevention and Reduction of Underage Drinking, which provides national data on underage drinking and describes federal prevention activities. The 2018 Report is available at [stopalcoholabuse.gov](http://stopalcoholabuse.gov).

Implicit in the description of a continuum is the understanding that some elements may overlap. For example, promotion and prevention strategies may share similar approaches. (SAMHSA, 2018; NRC & IOM, 2009). Together, these elements must be seen together as part of a comprehensive approach to the problem of underage alcohol consumption. Further, prevention of underage drinking should be understood as influencing the risk of excessive alcohol use (e.g., binge drinking) and the development of substance use disorders throughout the lifespan. Since early initiation of alcohol use is associated with the development of an alcohol use disorder later in life, and binge drinking by youth is strongly associated with binge drinking by adults, the use of effective prevention strategies for underage drinking can have a long-term impact on the entire continuum of care, and help reduce the economic cost of excessive alcohol use and related harms in the U.S., which was estimated to be \$249 billion (\$2.05 per drinking) in 2010 (Edwards, Stein-Seroussi, Flewelling, Orwin, Zhang, 2015; Flewelling, Grube, Paschall, et al., 2013; Sacks, Gonzales, Bouchery, Tomedi, & Brewer, 2015; Holder, 2002).<sup>2</sup>

At the same time, it is also important to recognize that the drinking behavior of adults can have a substantial impact on the drinking behavior of youth (Nelson, Naimi, Brewer, & Nelson, 2009; Nelson, Naimi, Brewer & Wechsler, 2005), and that many of the most effective interventions for reducing youth drinking are universal interventions that also reduce the drinking behavior of adults (e.g., increasing alcohol taxes and regulating alcohol outlet density). Therefore, a comprehensive approach to preventing underage drinking that also emphasizes the prevention of excessive drinking (e.g., binge drinking) by adults is likely to have the greatest impact on reducing underage drinking and related harms.

Finally, the primary focus of the *State Performance and Best Practices* is on the prevention of underage drinking. Therefore, this report does not discuss treatment and recovery best practices for alcohol use disorder, or related performance measures.<sup>3</sup> However, future editions will include evidence-based practices and related measures associated with the treatment of and recovery from alcohol use disorders among youth.

### ***Identifying and Implementing Statewide Policies***

Research indicates that effective prevention initiatives must be both multilevel (coordinating efforts among governments and agencies) and multifaceted (employing both environmental and individual-level approaches; Edwards, 2015; Flewelling et al., 2013; Holder, 2002). Prevention strategies must also be targeted strategically. The IOM describes three categories of prevention interventions: (1) universal (aimed at all members of a given population); (2) selective (aimed at

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<sup>2</sup> It is estimated that reducing alcohol use among youth ages 12 to 17 alone could result in an overall savings of \$52.9 billion. This estimate was derived from the product of (1) the number of high school-aged youth ages 12 to 17 years old in 2016 (25.01 million), and (2) the per-participant benefit (from implementing effective nationwide prevention programming for school-aged children and youth) minus cost associated with alcohol. The estimate was reduced by 25 percent to account for reduced intervention effectiveness as the implementation moves from demonstration to full implementation (Greenwood et al., 1996; Miller and Levy, 2000; and Aos et al., 1999). Assumptions: Only savings from existing school-based programs are included in these estimates. Cost savings accrue over a multiyear period. Future costs were converted to present value using a 3 percent discount rate. Costs due to youth substance abuse decline at the same rate as the number of initiators.

<sup>3</sup> The only exceptions are two measures described in Chapter IV: (1) percentage of 12- to 17-year-olds meeting the criteria for a DSM-IV alcohol use disorder in the past year; and (2) percentage of 12- to 17-year-olds needing but not receiving treatment for an alcohol use disorder at a specialty facility in the past year.



a subgroup determined to be at high-risk for substance use); and (3) indicated (targeted to individuals who are already using substances but have not developed a substance use disorder; NRC & IOM, 2009). As noted in the 2016 Surgeon General’s Report, *Facing Addiction in America: The Surgeon General’s Report on Alcohol, Drugs, and Health*, “...research has not yet been able to suggest an optimal mix” (HHS, 2016).

As the Surgeon General’s report states (HHS, 2016), the choices as to where to target a strategy are not always clear cut:

Communities may think it is best to direct services only to those with the highest risk and lowest protection or to those already misusing substances. However, a relatively high percentage of substance misuse-related problems come from people at lower risk, because they are a much larger group within the total population than are people at high-risk. This follows what is known as the Prevention Paradox: “a large number of people at a small risk may give rise to more cases of disease than the small number who are at a high risk. By this logic, providing prevention interventions to everyone (i.e., universal interventions) rather than only to those at highest risk is likely to have greater benefits.

Given these complexities, communities and governments wishing to address underage drinking prevention are faced with multiple choices that must be appropriate to the specifics of their community and workable within the limits of their resources. Considerations must include whether specific interventions are culturally appropriate, especially when targeted toward diverse populations, or whether adaptations are necessary. Further, adaptations of an evidence-based intervention must be measured against preservation of the fidelity of the intervention (HHS, 2016). A strategy is only as effective as its implementation allows. Therefore, researchers stress that evaluation of the implementation process is a key component to putting any evidence-based strategies and programs into practice, and that both ensuring fidelity and adaptation (when appropriate) are critical to the ultimate effectiveness of the program (Fixsen, Naoom, Blasé, Friedman, & Wallace, 2005; HHS, 2016).

Implementation has been defined as a specified set of activities designed to put into practice an activity, policy, or program (Fixsen et al., 2005). It requires “deliberate and strategic efforts to facilitate collaboration, communication, and relationship-building among researchers, implementers, and policymakers” (Sturke et al., 2014). Similarly, sustainable implementation is supported by “a bi-directional model, where researchers work with, and learn from, people on the ground rather than coming to dictate what will be done” (Fogarty International Center, 2013).

Researchers have suggested guidelines for promoting state and national policies to implement transformative human services practices and programs that are particularly relevant to the best practices discussed in Chapter I of this document:

1. Policymakers and planners need to build knowledge of implementation into policies and guidelines that impact human services.
2. Governments need to invest in the development and use of implementation strategies and methods that are grounded in research and elaborated through accumulated experience.

3. Funding strategies are critical to implementation of well-defined practices and programs (Fixsen et al., 2005).

For many of the 26 evidence-based policies identified in Chapter I as best practices, implementation is largely synonymous with enforcement. Just as programs cannot be effective if they are not implemented properly, policies cannot be effective if they are not enforced. The above-mentioned implementation guidelines for promoting policies apply equally to the discussion of enforcement found in Chapter II.

### ***Framework of State Performance and Best Practices***

Chapter I describes 26 state policies deemed to be best practices in preventing and reducing underage drinking. It also includes the status of adoption of these policies by the states. Policies fall into four categories: (1) laws addressing underage possession or purchase of alcohol; (2) laws targeting underage drinking and driving; (3) laws targeting alcohol supplies; and (4) laws affecting alcohol pricing. Most of these policies were included in original STOP Act legislation or were recommended by Congress during the 2009–2010 appropriations process.

Chapter II discusses the significance of enforcement in underage drinking prevention. As noted above, implementation of many policies, including prohibitions on underage possession, consumption, or purchase of alcohol is largely synonymous with enforcement. A significant component of the STOP Act’s mission is to collect data and report on each state’s performance in enforcing policies designed to prevent or reduce underage drinking.

Chapter III provides an analysis of responses to the 2017 STOP Act State Survey, an annual survey on the states’ enforcement and prevention activities.<sup>4</sup> This includes findings on the states’ environmental and individual-level strategies for addressing underage drinking.

Chapter IV provides data on how the states compare to national averages for six key performance measurements related to prevention and treatment of underage drinking. These measures (with one exception) have been identified by the ICCPUD as significant for purposes of evaluating progress in underage drinking prevention.

It should be noted that the best practices described here are primarily environmental. That is, they seek to alter physical, economic, and social environments which may be focused on entire populations or a subpopulation. The main mechanisms for environmental change include state laws and local ordinances and their enforcement, institutional policies, and changing norms. In contrast, individual-level approaches include programs designed to impart knowledge, change attitudes and beliefs, or teach skills to youth and adults. Individual-level best practices for prevention, treatment, and recovery are discussed in the 2016 Surgeon General’s Report, as well as environmental-level best practices (HHS, 2016). The State Reports also describe many of the individual-level programs being used in each state.

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<sup>4</sup> Each state’s complete survey response is included in its State Report, described above.

## Chapter I: Best Practices-- Evidence-Based Prevention Policies

Fundamentally, a best practice can be defined as “an intervention that has shown evidence of effectiveness in a particular setting and is likely to be replicable to other situations” (Ng & de Colombani, 2015). Such interventions are validated as evidence-based practices (EBPs) through documented scientific testing for efficacy, as opposed to reliance on convention, tradition, folklore, personal experience, belief, intuition, or anecdotal evidence.

Despite broad agreement regarding the need for EBPs, there is currently no consensus on the precise definition of an EBP. Disagreement arises not from the need for evidence, but from the kind and amount of evidence required for validation. The gold standard of scientific evidence is the randomized controlled trial, but it is not always possible to conduct such trials. Many strong, widely used, quasi-experimental designs have produced and will continue to produce credible, valid, and reliable evidence—these should be relied on when randomized controlled trials are not possible. Practitioner input is a crucial part of this process and should be carefully considered as evidence is compiled, summarized, and disseminated to the field for implementation.

The Institute of Medicine (now the Health and Medicine Division of the National Academies), for example, defined an EBP as one that combines the following three factors: best research evidence, best clinical experience, and consistency with patient values (IOM, 2001). The American Psychological Association adopted a slight variation of this definition for the field of psychology, as follows: EBP is “the integration of the best available research with clinical expertise in the context of patient characteristics, culture, and preferences” (APA Presidential Task Force on Evidence-Based Practice, 2006).

The federal government does not provide a single, authoritative definition of EBPs, yet the general concept of an EBP is clear: some form of scientific evidence must support the proposed practice, the practice itself must be practical and appropriate given the circumstances under which it will be implemented and the population to which it will be applied, and the practice must have a significant effect on the outcome(s) to be measured.

This chapter presents summaries of 26 underage drinking prevention policies that have been identified as best practices. The prevention policies fall into four categories: (1) policies addressing underage possession or purchase of alcohol; (2) policies targeting underage drinking and driving; (3) policies targeting alcohol availability; and (4) policies affecting alcohol pricing. Seventeen of these policies were included in original STOP Act legislation or in Congressional report language during the 2009–2010 appropriations process. The remaining nine policies were

added by the ICCPUD following input from various stakeholders and review of the relevant literature.

Each of the underage drinking prevention policies analyzed below was determined to be a best practice by ICCPUD. Additionally, the majority of these policies were identified as best practices by one or more of the following five sources:

1. Community Preventive Services Task Force (*Guide to Community Preventive Services. Preventing Excessive Alcohol Consumption*; Community Preventive Services Task Force, 2016).
2. The Surgeon General (*The Surgeon General's Call to Action to Prevent and Reduce Underage Drinking*; HHS, 2007).
3. Institute of Medicine (*Reducing Underage Drinking: A Collective Responsibility*; National Research Council [NRC] and IOM, 2004).
4. National Institute on Alcohol Abuse and Alcoholism (*CollegeAIM: Alcohol Intervention Matrix*, NIAAA).
5. The Surgeon General (*Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health*; HHS, 2016).

The 26 policies are listed in Table 1. An “X” indicates that a given policy is identified as a best practice by ICCPUD and one or more of the five sources listed above.

One policy—Outlet Siting Near Schools—was addressed at a more general level by three of the sources: the Community Preventive Services Task Force, the NIAAA *CollegeAIM*, and the 2016 Surgeon General's Report. These sources included restrictions on alcohol outlet density as a best practice without specifically endorsing the reduction of alcohol outlet density near schools.

Each of these policies is evidence-based and supporting research is included after each policy description. It is important to note that the data supporting each of the 26 policies are different. Some policies find greater or lesser support in research literature and in the source documents. Each policy summary describes the policy's key components, the status of the policy across states, and trends over time.

**Table 1: Underage Drinking Prevention Policies – Best Practices**

Source Identifying Policy as a Best Practice						
Underage Drinking Prevention Policies	ICCPUD determination based on input from stakeholders and literature review	Community Preventive Services Task Force	Surgeon General's Call to Action	IOM Report, Reducing Underage Drinking: A Collective Responsibility	CollegeAIM (Alcohol Intervention Matrix; NIAAA)	Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs and Health
<b>Policies addressing underage possession or purchase of alcohol</b>						
Possession by minor	X		X	X	X	
Consumption by minor	X		X	X	X	
Internal possession by minor	X					
Purchase or attempt to purchase alcohol by minor	X		X	X	X	
False identification/Incentives for retailers to use ID scanners or other technology	X		X	X	X	
<b>Policies targeting underage drinking and driving</b>						
Youth BAC limits (zero tolerance)	X		X	X		X
Loss of driving privileges for alcohol violations by minors (use/lose law)	X					X
Graduated driver's licenses	X		X	X		
<b>Policies targeting alcohol availability</b>						
Furnishing or sale to a minor	X		X	X	X	
Compliance checks	X	X	X	X	X	X
Penalty guidelines for violations of furnishing laws by retailers	X					
Mandatory/voluntary server-seller training (responsible beverage service programs)	X		X	X	X	
Minimum age for off-sale server	X					
Minimum age for on-sale server	X					
Outlet siting near schools	X					
Dram-shop liability	X	X		X	X	X
Social-host liability	X			X	X	X
Hosting underage drinking parties	X		X	X	X	X
Retailer interstate shipment	X					
Direct sales/shipment from producer	X					
Keg registration	X		X	X	X	
Home delivery	X			X		
High-proof grain alcoholic beverages	X					
<b>Policies affecting alcohol pricing</b>						
Increasing alcohol tax rates	X	X		X	X	X
Restrictions on drink specials	X		X	X	X	
Wholesaler pricing provisions	X					

## Policies Addressing Underage Possession or Purchase of Alcohol

### Underage Possession, Consumption, and Internal Possession

#### Policy Description

As of January 1, 2017, all states prohibit possession of alcoholic beverages (with certain exceptions) by those under age 21. In addition, most jurisdictions have statutes that specifically prohibit the consumption of alcoholic beverages by those under age 21.

In recent years, a number of jurisdictions have enacted laws prohibiting “internal possession” of alcohol by persons under 21. These provisions typically require evidence of alcohol in the minor’s body, but do not require any specific evidence of possession or consumption. Internal possession laws are especially useful to law enforcement in making arrests or issuing citations when breaking up underage drinking parties. Internal possession laws allow officers to bring charges against underage individuals who are neither holding nor drinking alcoholic beverages in the presence of law enforcement officers.

#### *Exceptions*

Some jurisdictions allow exceptions to possession, consumption, or internal possession prohibitions when a family member consents or is present. Jurisdictions vary widely in terms of which relatives may consent or must be present for this exception to apply and in what circumstances the exception applies. Sometimes a reference is made simply to “family” or “family member” without further elaboration.

Some jurisdictions allow exceptions to possession, consumption, or internal possession prohibitions on private property. Jurisdictions vary in the extent of the private property exception, which may extend to all private locations, private residences only, or in the home of a parent or guardian only.

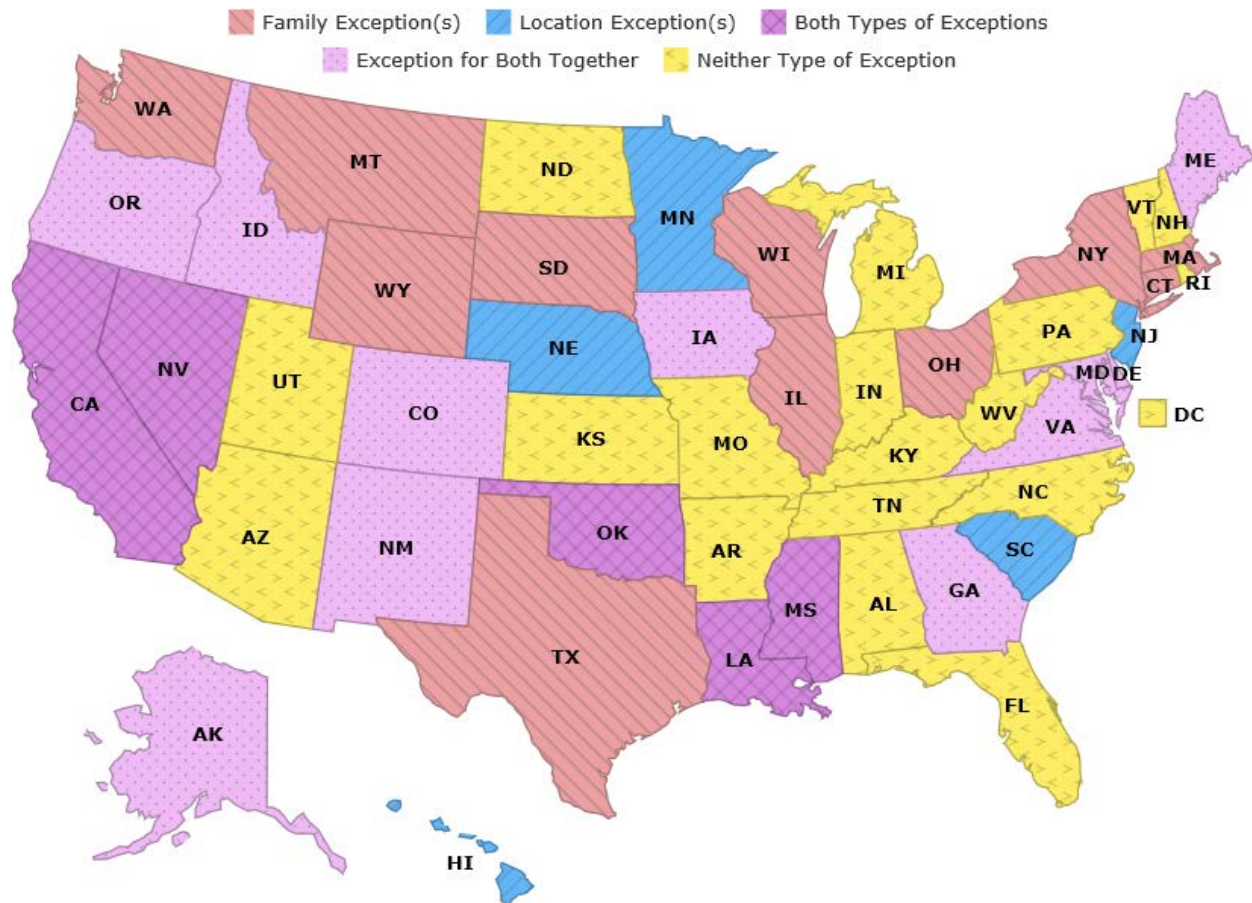
In some jurisdictions, a location exception is conditional on the presence or consent of a parent, legal guardian, or spouse (see Exhibit I.1, “Exception for Both Together”). In other jurisdictions, both family and location exceptions exist and apply separately (see Exhibit I.1, “Both Types of Exceptions”).

With respect specifically to consumption laws, some jurisdictions prohibit underage consumption on licensed premises only.

#### Status of Underage Possession Policies

As of January 1, 2017, all states prohibit possession of alcoholic beverages by those under age 21. Nineteen states have no exception, 11 have family exceptions only, and 5 have location exceptions only. The remaining states have both types of exceptions, which in some states are conditional on each other and in some states apply separately (see Exhibit I.1).

### Exhibit I.1: Exceptions to Minimum Age of 21 for Possession of Alcohol as of January 1, 2017



#### Trends in Underage Possession Policies

Between 1998 and 2017, the number of jurisdictions with family exceptions rose from 24 to 27, the number with location exceptions rose from 20 to 21, and the number of jurisdictions with neither exception decreased from 21 to 19 (see Exhibit I.2).

#### Status of Underage Consumption Policies

As of January 1, 2017, 37 jurisdictions prohibit consumption of alcoholic beverages by those under age 21. Of those, 15 permit no exception (see Exhibit I.3). Seven states permit only family exceptions; three states permit only location exceptions. Twelve states had both types of exceptions, with 10 of those states permitting underage consumption only if both family and location criteria are met.

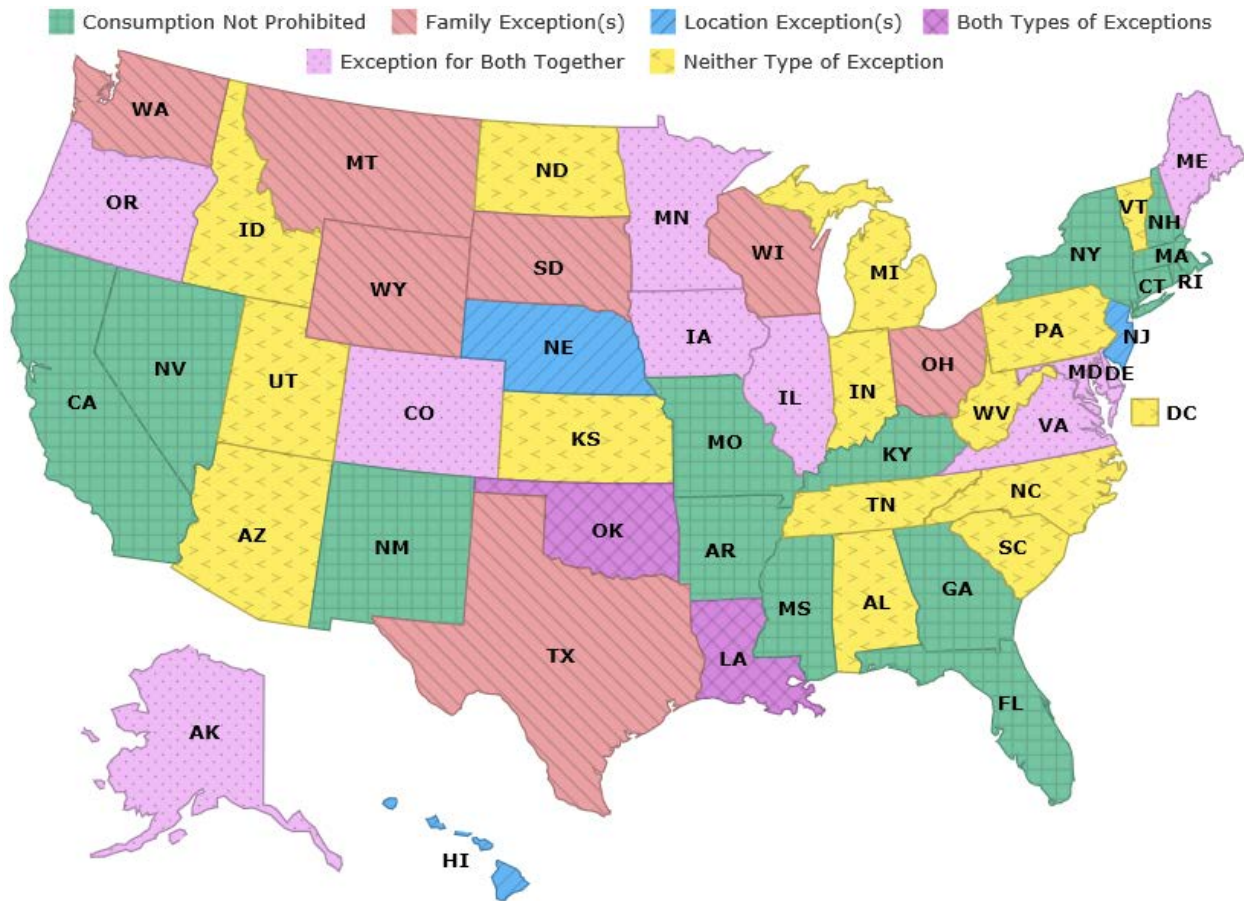
#### Trends in Underage Consumption Policies

As Exhibit I.4 illustrates, between 1998 and 2017, the number of jurisdictions that prohibit underage consumption under at least some circumstances increased from 27 to 37.

**Exhibit I.2: Number of States with Family and Location Exceptions to Minimum Age of 21 for Possession of Alcohol, January 1, 1998, through January 1, 2017**

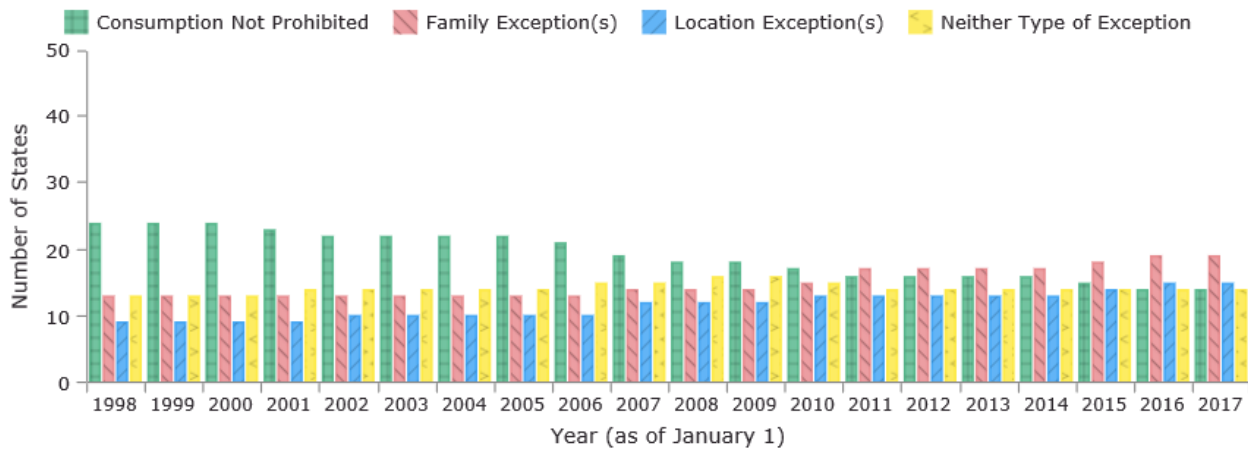


**Exhibit I.3: Exceptions to Minimum Age of 21 for Consumption of Alcohol as of January 1, 2017**





### Exhibit I.4: Number of States with Family and Location Exceptions to Minimum Age of 21 for Consumption of Alcohol, January 1, 1998, through January 1, 2017



#### Status of Underage Internal Possession Policies

As of January 1, 2017, nine states prohibit internal possession of alcoholic beverages for anyone under age 21 (see Exhibit I.5). Of the nine states that prohibit internal possession, three make exceptions for presence of family and/or location.

#### Trends in Underage Internal Possession Policies

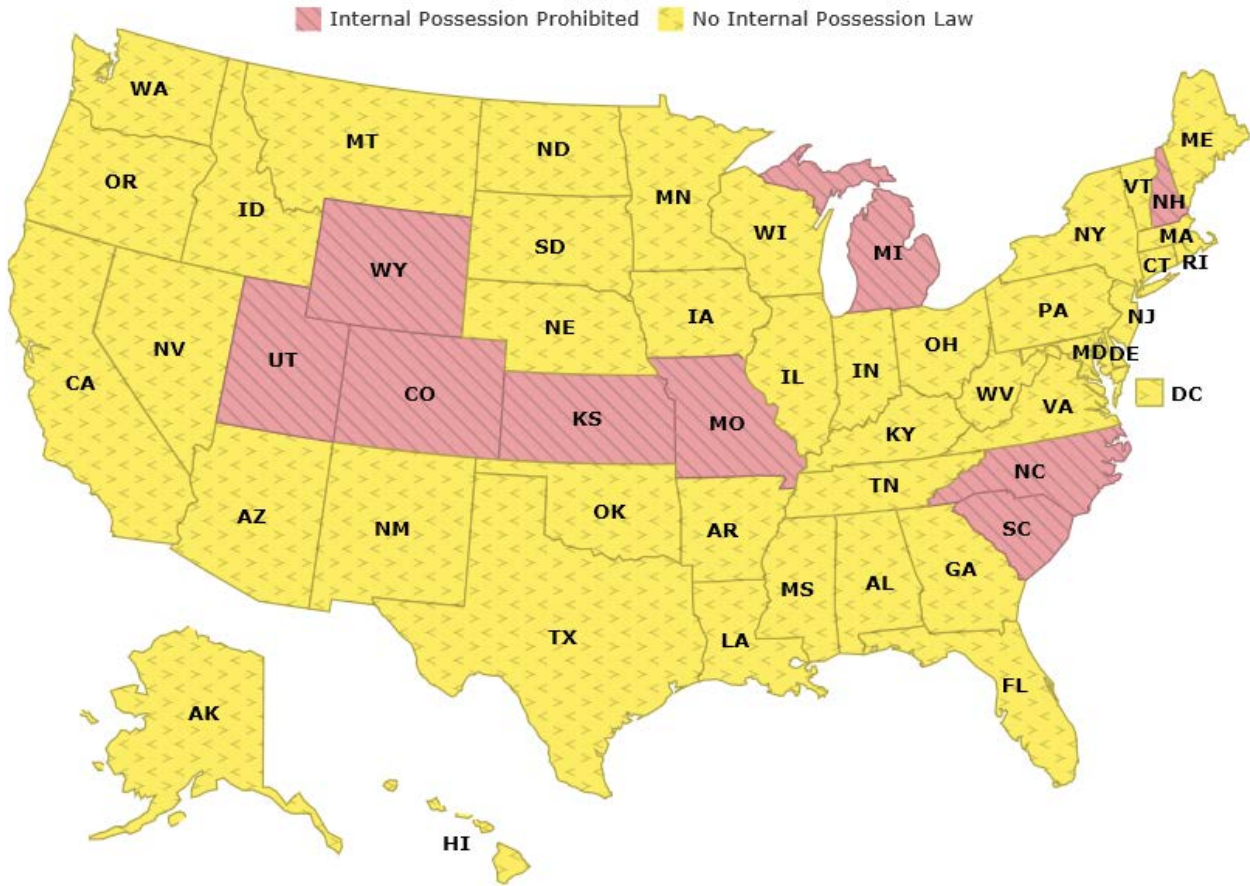
As Exhibit I.6 illustrates, between 1998 and 2017, the number of states that prohibit underage internal possession grew from two to nine. The most recent state to enact a prohibition on internal possession was Wyoming in 2010.

#### Data Sources and Citations

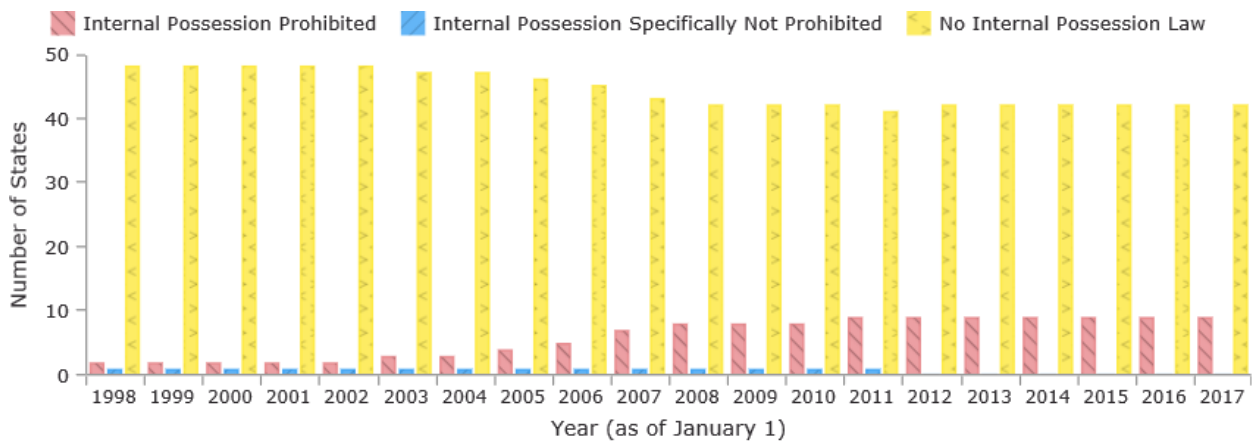
All data for underage possession, consumption, and internal possession policy topics were obtained at <http://www.alcoholpolicy.niaaa.nih.gov> from the Alcohol Policy Information System (APIS; follow links to the policy titled “Underage Possession/Consumption/Internal Possession of Alcohol”). APIS provides further descriptions of this set of policies and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

- Carpenter, C., & Dobkin, C. (2011). The minimum legal drinking age and public health. *The Journal of Economic Perspectives*, 25(2), 133–156.
- Dee, T. S. (1999). State alcohol policies, teen drinking and traffic fatalities. *Journal of Public Economics*, 72, 289–315.
- Dee, T.S., Evans, W.N. (2001). Behavioral policies and teen traffic safety. *The American Economic Review Papers and Proceedings*, 91(2), 91–96.
- DeJong, W., & Blanchette, J. (2014). Case closed: Research evidence on the positive public health impact of the age 21 minimum legal drinking age in the United States. *Journal of Studies on Alcohol and Drugs*, 75(Suppl 17), 108–115.

**Exhibit I.5: Prohibition of Internal Possession of Alcohol by Persons Under Age 21 as of January 1, 2017**



**Exhibit I.6: Distribution of States with Laws Prohibiting Internal Possession of Alcohol by Persons Under Age 21, January 1, 1998, through January 1, 2017**



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## Underage Purchase and Attempted Purchase

### Policy Description

Most states prohibit minors from purchasing or attempting to purchase alcoholic beverages. A minor purchasing alcoholic beverages can be prosecuted for possession because, arguably, a sale cannot be completed until there is possession on the part of the purchaser. Purchase and possession are nevertheless separate offenses. A minor who purchases alcoholic beverages could be liable for two offenses in states that have both prohibitions (see the “Underage Possession/Internal Possession/Consumption” policy above for further discussion).<sup>5</sup> A significant minority of youth purchase or attempt to purchase alcohol for themselves, sometimes using falsified identification (see the “False Identification” policy below).

Such purchases increase the availability of alcohol to underage persons, which, in turn, increases underage consumption. Prohibitions and associated sanctions on underage alcohol purchases can be expected to depress rates of and attempts to purchase by raising the monetary and social costs of this behavior. These laws provide a primary deterrent (preventing attempted purchases) and a secondary deterrent (reducing the probability that persons sanctioned under these laws will attempt to purchase in the future).

In some states, a person under age 21 is allowed to purchase alcoholic beverages as part of a law enforcement action. Most commonly, these actions are checks on merchant compliance or stings to identify merchants who illegally sell alcoholic beverages to minors. This allowance for purchase in the law enforcement context may exist even though a state does not have a law specifically prohibiting underage purchase.

### Status of Underage Purchasing Policies

As of January 1, 2017, 46 states and the District of Columbia prohibit underage purchase or attempted purchase of alcohol; the remaining four states (Delaware, Indiana, New York, and Vermont) do not (see Exhibit I.7). Underage persons are allowed to purchase alcohol for law enforcement purposes in 24 states including Indiana, even though Indiana does not have an underage purchase statute.

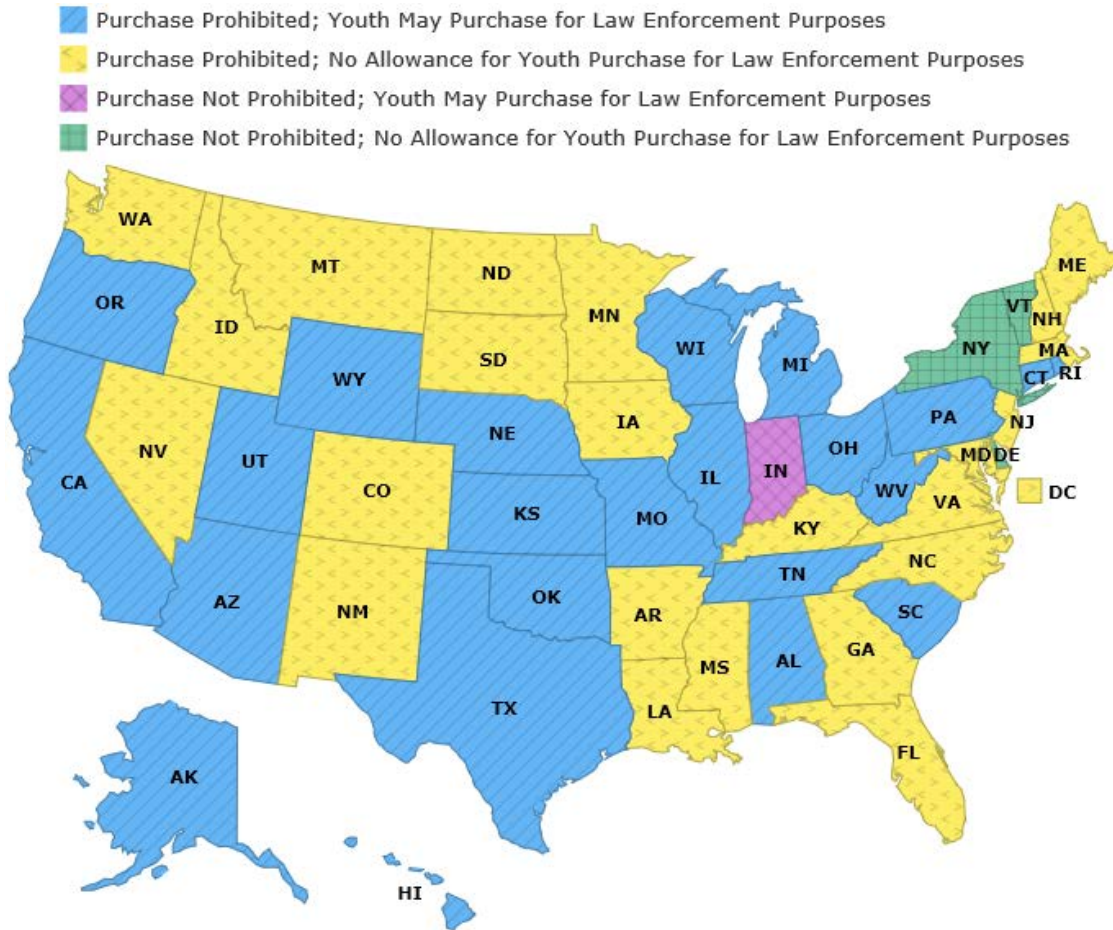
### Trends in Underage Purchasing Policies

Since 1998, the number of jurisdictions prohibiting underage purchase of alcohol has increased from 46 to 47. During that period, the number of states with allowances for underage purchase for enforcement purposes has steadily increased, from 8 in 1998 to 24 in 2017 (Exhibit I.8).

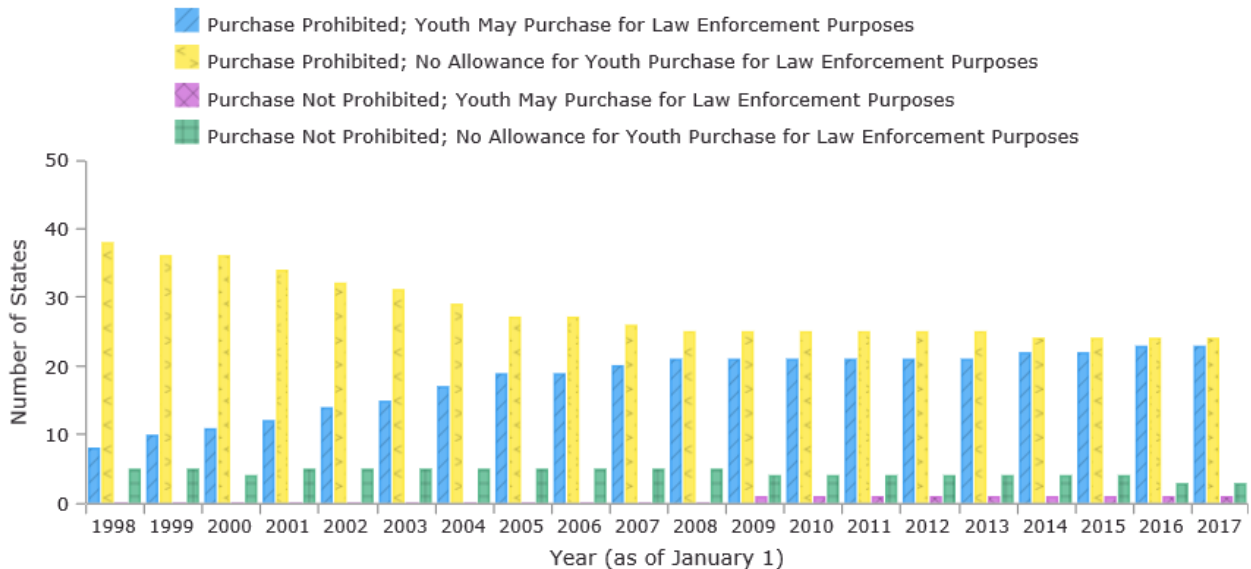
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<sup>5</sup> Some states have laws that specifically prohibit both underage purchase and attempted purchase of alcohol. An attempted purchase occurs when a minor takes concrete steps toward committing the offense of purchasing whether or not the purchase is consummated. Courts in states that include only the purchase prohibition in their statutes would likely treat attempted purchase as a lesser included offense. It can, therefore, be assumed that all states that prohibit purchase also prohibit attempted purchases. The two offenses are thus not treated separately in this report.

**Exhibit I.7: Underage Purchase of Alcohol for Law Enforcement Purposes as of January 1, 2017**



**Exhibit I.8: Underage Purchase of Alcohol for Law Enforcement Purposes, January 1, 1998, through January 1, 2017**



## Data Sources and Citations

All data for this policy were obtained from APIS (<http://www.alcoholpolicy.niaaa.nih.gov>; follow links to the policy titled “Underage Purchase of Alcohol”). APIS provides further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## False Identification (“False ID”)

### Policy Description

Alcohol retailers are responsible for ensuring that sales of alcoholic beverages are made only to individuals who are legally permitted to purchase alcohol. Inspecting government-issued identification (driver’s license, nondriver ID card, passport, and military ID card) is one major mechanism for ensuring that buyers meet minimum age requirements. In attempting to circumvent these safeguards, minors may obtain and use apparently valid ID cards that falsely state their age as 21 or over. Age may be falsified by altering the birthdate on a valid ID card, obtaining an invalid ID card that appears to be valid, or using someone else’s ID card.

Compliance check studies suggest that underage drinkers may have little need to use false ID because retailers often make sales without any ID inspection. However, concerns about false ID remain high among educators, law enforcement officials, retailers, and government officials. Current technology, including high-quality color copiers and printers, has made false ID cards easier to fabricate, and the Internet provides ready access to a large number of false ID vendors.

All states prohibit use of false ID by minors to obtain alcohol. In addition to basic prohibitions, states have adopted a variety of legal provisions pertaining to false ID for obtaining alcohol. These can be divided into three basic categories:

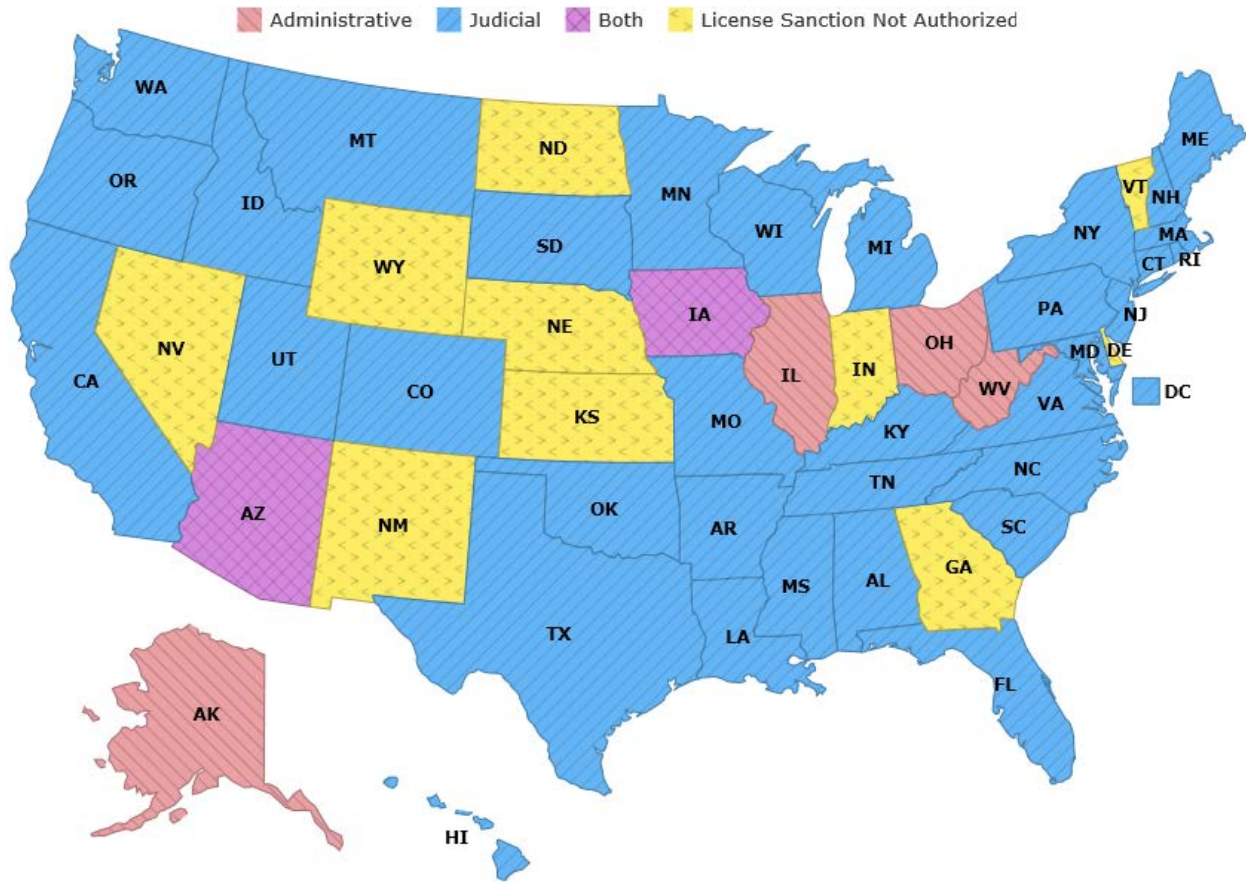
1. Provisions that target minors who possess and use false ID cards to obtain alcohol.
2. Provisions that target those who supply minors with false ID cards, either through lending of a valid ID card or production of invalid (“fake”) ID cards.
3. Provisions that assist retailers in avoiding sales to potential buyers who present false ID cards. For further discussion of policies pertaining to the purchase of alcohol by minors, see the “Underage Purchase and Attempted Purchase” policy above; for policies that mandate training of servers to detect false identification, see the “Responsible Beverage Service” policy below; and for policies on license suspension or revocation, see the “Loss of Driving Privileges for Alcohol Violations by Minors” policy below.

### Status of False ID Policies

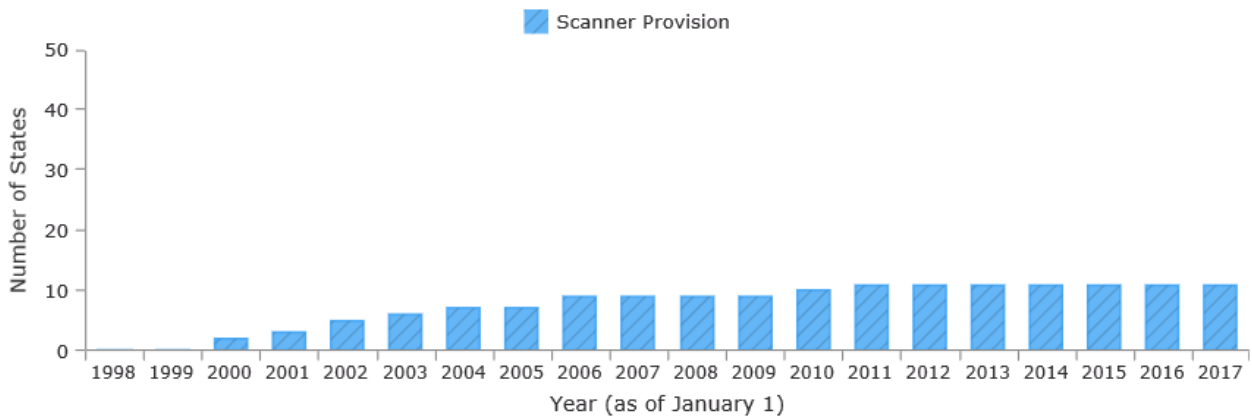
#### *Provisions That Target Minors*

As of January 1, 2017, all states and the District of Columbia prohibit minors from using false ID cards to obtain alcohol. Forty-one jurisdictions authorize suspension of minors’ driver’s licenses for using false ID in the purchase of alcohol through judicial proceedings, administrative proceedings, or both (see Exhibit I.9).

**Exhibit I.9: Procedure for Imposing License Sanction for Use of False ID as of January 1, 2017**



**Exhibit I.10: Number of States With Scanner Provisions in False ID Laws, January 1, 1998, through January 1, 2017**



### ***Provisions That Target Suppliers***

As of January 1, 2017, 25 states have laws that target suppliers of false ID cards; 24 prohibit lending, transferring, or selling false ID cards to minors for the purpose of purchasing alcohol; and 13 prohibit manufacturing such IDs.

### ***Provisions That Support Retailers***

Retailer support provisions vary widely across the states. In prosecutions involving an illegal underage alcohol sale, 44 states and the District of Columbia provide for some type of affirmative defense (the retailer shows that he/she reached a good faith or reasonable conclusion that the false ID was valid); 42 states have laws requiring distinctive licenses for persons under age 21; 12 states permit retailers to seize apparently false IDs; 11 states provide incentives for the use of scanners (see Exhibit I.10); 4 states (Arkansas, Colorado, South Dakota, and Utah) allow retailers to detain minors; and 5 states (Alaska, New Hampshire, Oregon, Utah, and Wisconsin) permit retailers to sue minors for damages.

### **Trends in False ID State Policies**

State false ID policies that target minors and suppliers have been relatively stable since 1998. Between 2014 and 2015, Indiana and Georgia eliminated their license suspension penalties.

### **Data Sources and Citations**

All data for this policy were obtained from APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy titled “False Identification for Obtaining Alcohol” for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Policies Targeting Underage Drinking and Driving

### Youth Blood Alcohol Concentration Limits (underage operators of noncommercial motor vehicles)

#### Policy Description

Blood alcohol concentration (BAC) limit policies establish the maximum amount of alcohol a minor can have in his or her bloodstream when operating a motor vehicle. BAC is commonly expressed as a percentage. For instance, a BAC of 0.08 percent means that a person has 8 parts of alcohol per 10,000 parts blood in the body. State laws generally specify BAC levels in terms of grams of alcohol per 100 milliliters of blood (often abbreviated as grams per deciliter, or g/dL). BAC levels can be detected by breath, blood, or urine tests. The laws of each jurisdiction specify the preferred or required types of tests used for measurement.

There is strong scientific evidence that, as BAC increases, the cognitive and motor skills needed to operate a motor vehicle are increasingly impaired. BAC statutes establish criteria for determining when the operator of a vehicle is sufficiently impaired to constitute a threat to public safety and is, therefore, violating the law. Currently, all states and the District of Columbia mandate a BAC limit of 0.08 g/dL for drivers over age 21.

Underage drivers' ability to safely operate a motor vehicle may be impaired at a lower BAC than that of adults because of lower body mass, lack of physiological development, and lack of driving experience. Partly as a result of financial incentives established by the federal government, all jurisdictions in the United States have enacted low BAC limits for underage drivers. Laws establishing very low legal BAC limits of 0.02 g/dL or less for drivers under the legal drinking age of 21 are widely referred to as zero-tolerance laws.

A per se BAC statute stipulates that if the operator has a BAC level at or above the per se limit, a violation has occurred without regard to other evidence of intoxication or sobriety (e.g., how well or poorly the individual is driving). In other words, exceeding the BAC limit established in a per se statute is itself a violation.

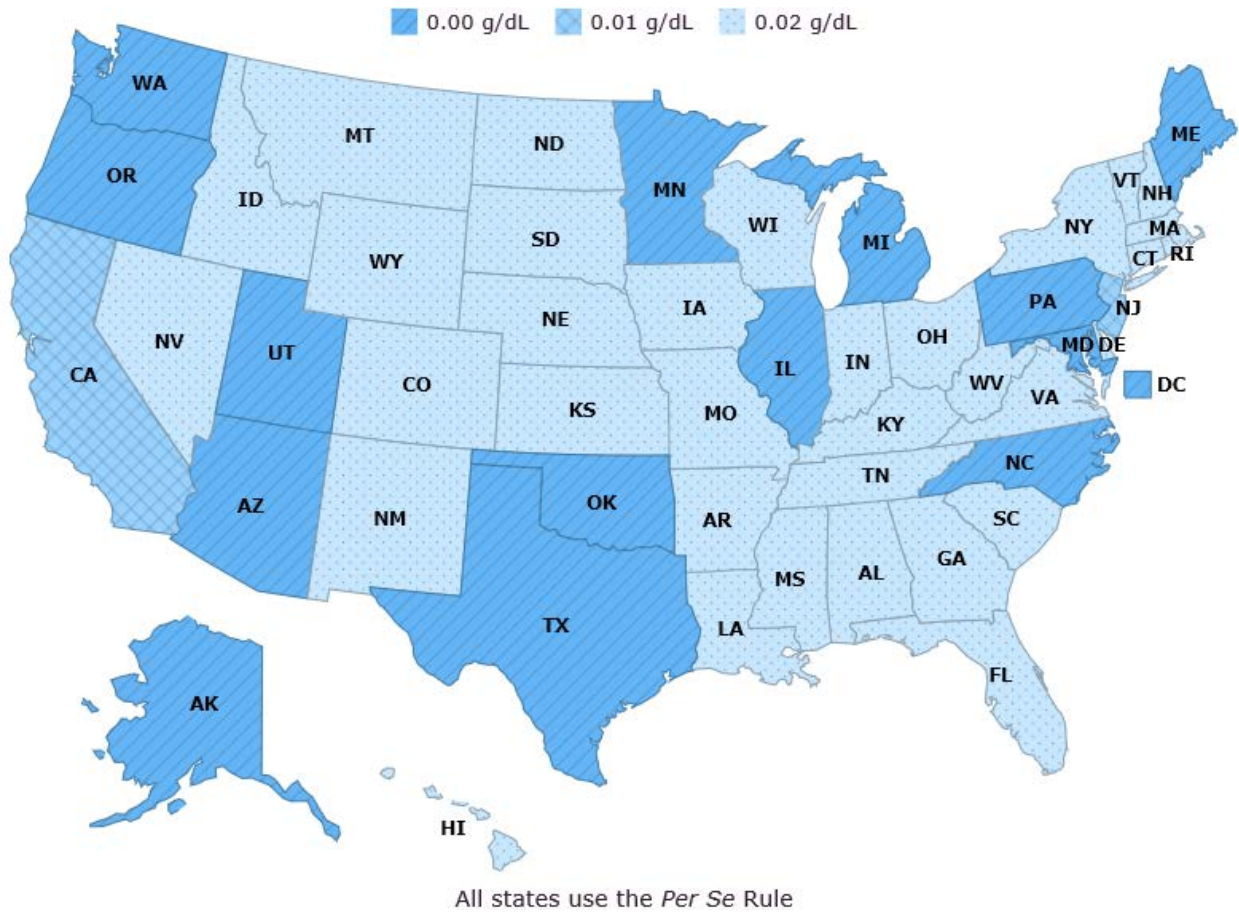
#### Status of Youth BAC Limit Policies

As of January 1, 2017, all states have per se youth BAC statutes. Thirty-four states set the driving BAC limit for underage persons at 0.02 g/dL (see Exhibit I.11). Fourteen states and the District of Columbia consider any underage alcohol consumption while driving to be a violation of the law and have set the limit to 0.00 g/dL. Two states (California and New Jersey) have set the underage BAC limit to 0.01 g/dL.

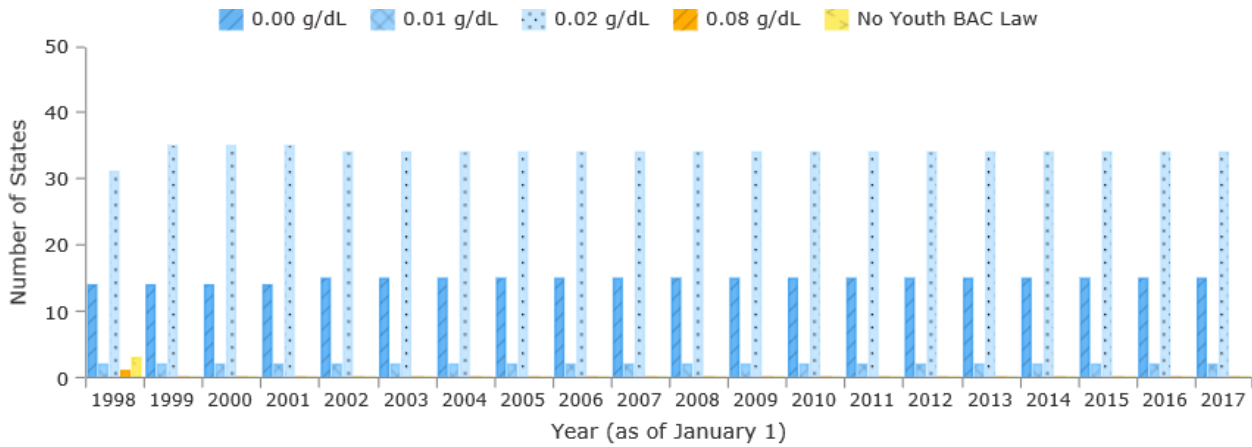
#### Trends in Youth BAC Limit Policies

Since 1998, all states have had zero tolerance (0.02 g/dL or lower) youth BAC limit laws (see Exhibit I.12). In the period between 1999 and 2017, the number of states mandating specific BAC limits for underage drivers remained constant with the exception of one state (Maryland), which lowered its underage BAC limit from 0.02 to 0.00 g/dL.

**Exhibit I.11: BAC Limits for Youth Operators as of January 1, 2017**



**Exhibit I.12: Distribution of Youth (underage operators of noncommercial motor vehicles) BAC Limit Laws, January 1, 1998, through January 1, 2017**



## Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Blood Alcohol Concentration Limits: Youth (Underage Operators of Noncommercial Motor Vehicles)" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose” Laws)

### Policy Description

Use/lose laws authorize suspension or revocation of driving privileges as a penalty for underage purchase, possession, or consumption of alcoholic beverages. States began enacting these statutes in the mid-1980s to deter underage drinking by imposing a punishment that young people would consider significant: the loss of a driver’s license. In most states, use/lose laws make it mandatory to impose driver’s license sanctions in response to underage alcohol violations. State laws vary as to the type of violation (purchase, possession, or consumption of alcohol) that leads to these sanctions and how long suspensions or revocations stay in effect.

State laws specific to minors (purchase, possession, and consumption of alcoholic beverages) are described in the “Underage Purchase and Attempted Purchase,” “Underage Possession,” “Underage Consumption,” and “Internal Possession by Minors” policies.

### Status of Loss of Driving Privileges Policies

Thirty-eight states and the District of Columbia have made license suspension or revocation mandatory or discretionary in cases of underage alcohol violations. Twelve states have no use/lose laws.

### *Upper Age Limits*

Twenty-seven states and the District of Columbia set age 21 as the upper limit for which use/lose laws apply. Ten states set the upper limit at age 18, and one state (Wyoming) sets the limit at age 19. In four states (Arkansas, Hawaii, Tennessee, and Virginia), some sanction conditions vary depending on whether the violator is under age 18 or under age 21.

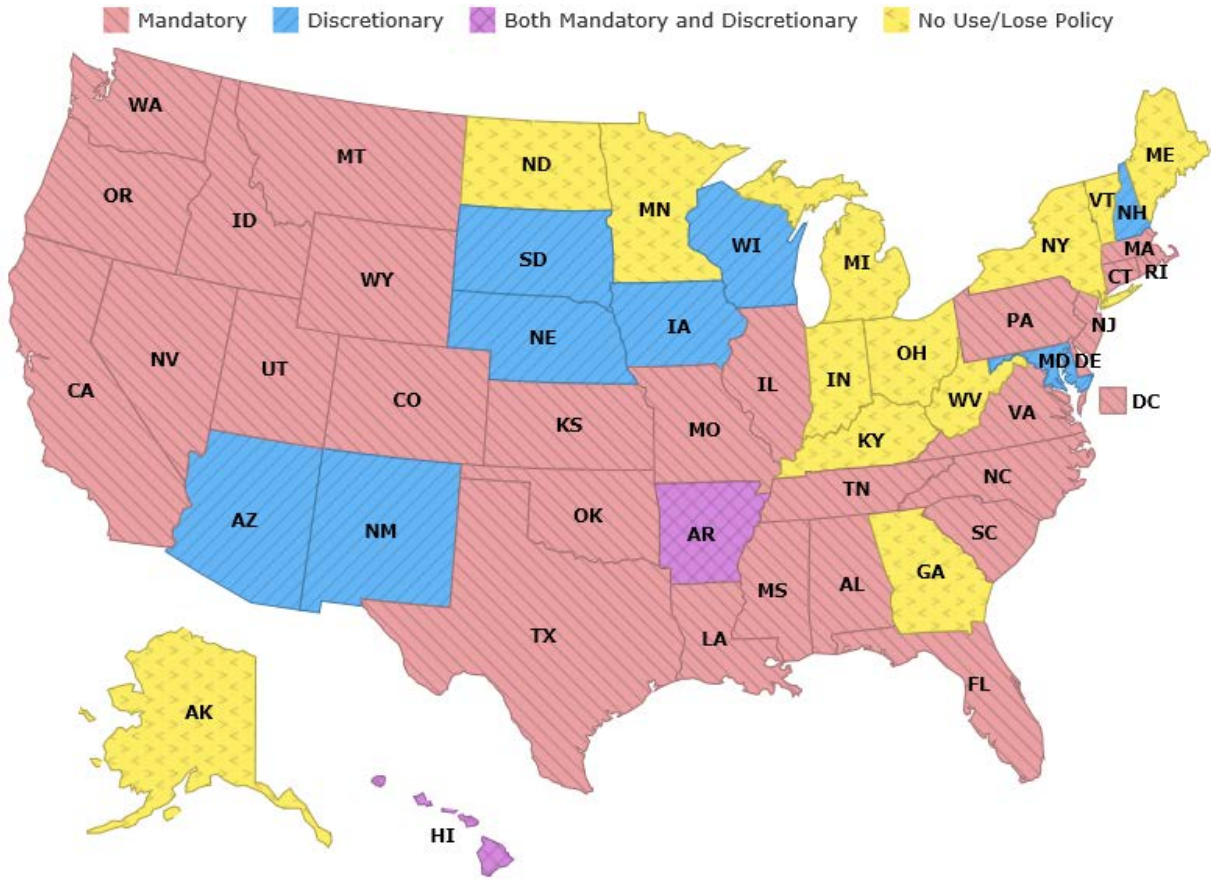
### *Authority to Impose License Sanctions*

In the vast majority of jurisdictions with use/lose laws (28 states and the District of Columbia), license suspension or revocation is mandatory (see Exhibit I.13). Eight states have made this a discretionary penalty for such violations. The remaining two states (Arkansas and Hawaii) have a discretionary penalty for minors below age 18, but mandatory for violators ages 18 through 20.

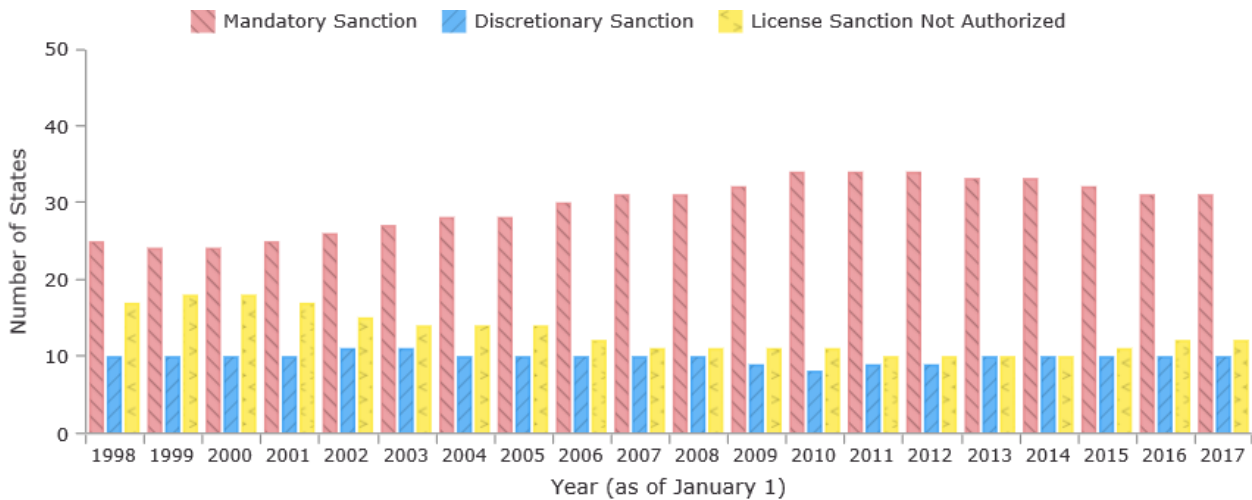
### *Trends in Loss of Driving Privileges Policies*

Between 1998 and 2017, the number of jurisdictions that made license suspension or revocation mandatory in cases of underage alcohol violations increased from 25 to 31 (see Exhibit I.14). During this period, the number of jurisdictions with no use/lose laws decreased from 17 to 12.

**Exhibit I.13: License Suspension/Revocation for Alcohol Violations by Minors as of January 1, 2017**



**Exhibit I.14: Distribution of License Suspension/Revocation Procedures for Alcohol Violations by Minors, January 1, 1998, through January 1, 2017**



## Data Sources and Citations

Data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Loss of Driving Privileges for Alcohol Violations by Minors ("Use/Lose" Laws)" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Graduated Driver's Licenses

### Policy Description

Graduated driver licensing (GDL) is a system designed to delay full licensure for teenage automobile drivers, thus allowing beginning drivers to gain experience under less risky conditions. Teenagers are targeted because they are at the highest risk for motor vehicle crashes, including alcohol-related crashes. By imposing restrictions on driving privileges, GDL reduces the chances of teenagers driving while intoxicated.

A fully developed GDL system has three stages: (1) a minimum supervised learner's period; (2) an intermediate license (once the driving test is passed) that limits unsupervised driving in high-risk situations; and (3) a full-privilege driver's license after completion of the first two stages. Beginners must remain in each of the first two stages for set minimum time periods.

The learner's stage has three components:

1. Minimum age at which drivers can operate vehicles in the presence of parents, guardians, or other adults.
2. Minimum holding periods during which learner's permits must be held before drivers advance to the intermediate stage of the licensing process.
3. Minimum age at which drivers become eligible to drive without adult supervision.

The intermediate stage of GDL law has five components:

1. Minimum age at which drivers become eligible to drive without adult supervision.
2. Unsupervised night-driving prohibitions
3. Primary enforcement of night-driving provisions.
4. Passenger restrictions, which set the total number of passengers allowed in vehicles driven by intermediate-stage drivers.
5. Primary enforcement of passenger restrictions.

“Primary enforcement” refers to the authority given to law enforcement officers to stop drivers for the sole purpose of investigating potential violations of night-driving or passenger restrictions. Law enforcement officers in states without primary enforcement can investigate potential violations of these provisions only as part of an investigation of some other offense. Primary enforcement greatly increases the chance that violators will be detected. The single component for the license stage of GDL is the minimum age at which full licensure occurs and both passenger and night-driving restrictions are lifted.

### Status of Graduated Driver Licensing Policies

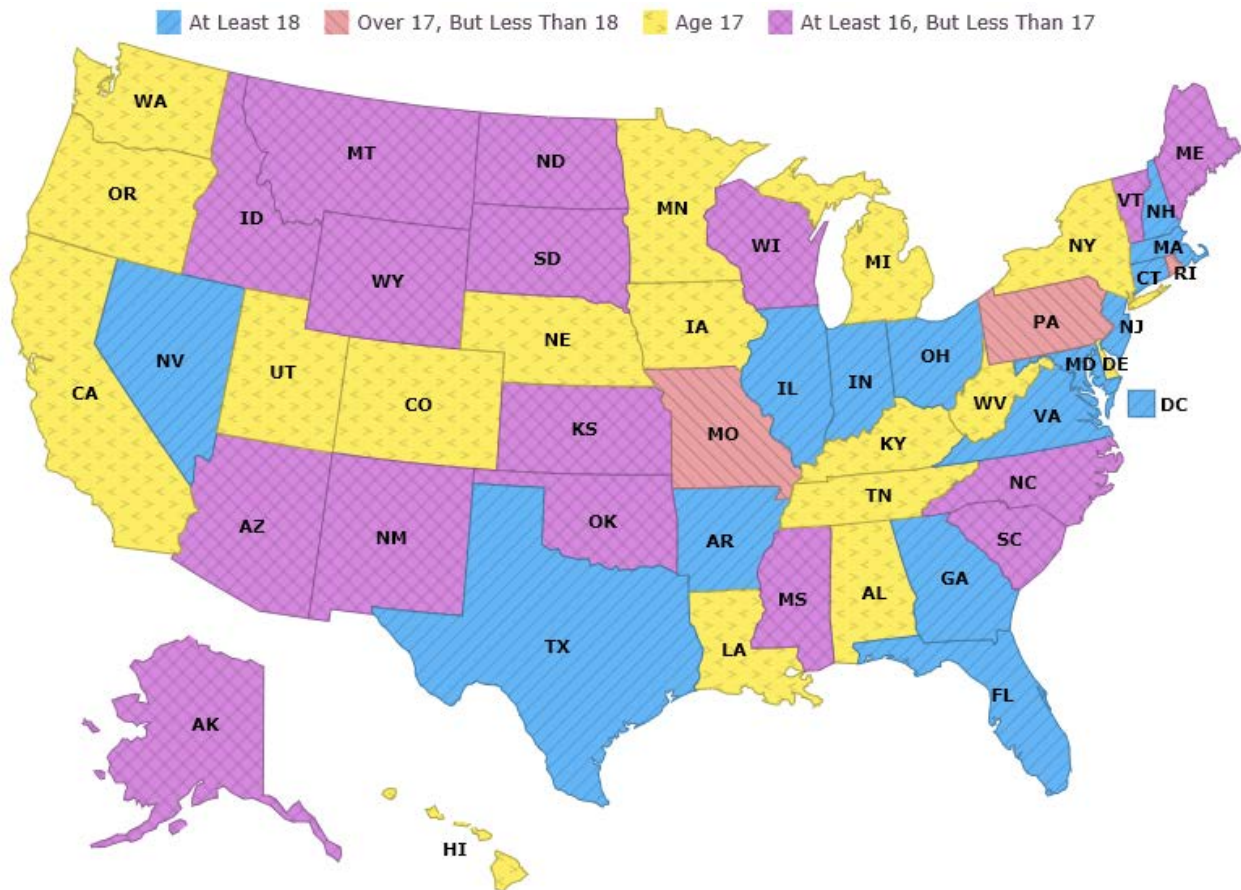
All 51 jurisdictions have some form of GDL policy and all states have full three-stage criteria. The minimum age for each stage and the extent to which the other restrictions are imposed vary across jurisdictions. An important GDL provision related to traffic safety is the minimum age for full licensure. Full licensure is allowed by 15 jurisdictions on the 18th birthday; 3 jurisdictions permit full licensure above age 17 but under age 18; and 17 jurisdictions permit full licensure on the 17th birthday (see Exhibit I.15). The remaining 16 jurisdictions permit full licensure to those who are under 17 but at least 16 years old. All but one jurisdiction have night-

driving restrictions. Forty-seven jurisdictions place passenger restrictions on drivers with less than full licensure.

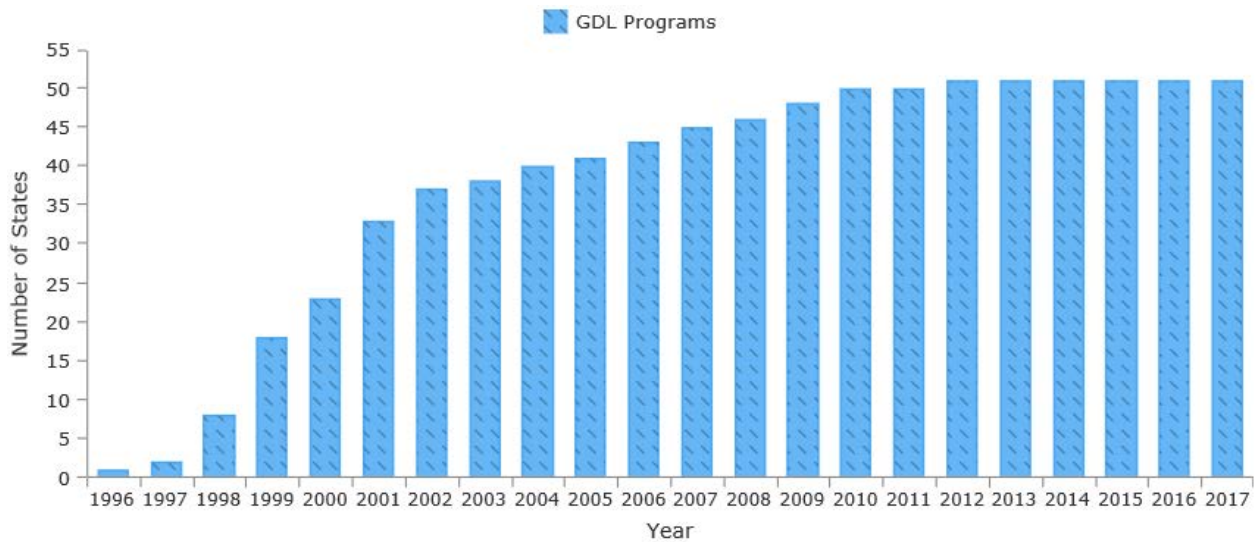
### Trends in Graduated Driver Licensing Policies

On January 1, 1996, only one state (Maryland) had a three-stage GDL law. However, by 2000, 23 jurisdictions had enacted three-stage GDL laws, and by 2012, that number had risen to the current level of 51 (see Exhibit I.16).

**Exhibit I.15: Minimum Age of Full Driving Privileges Laws as of January 1, 2017**



**Exhibit I.16: Number of States (and District of Columbia) with Three-Stage GDL Policies, July 1, 1996, through January 1, 2017**



### Data Sources and Citations

Legal research for this topic is planned and managed by the Substance Abuse and Mental Health Services Administration (SAMHSA) and conducted under contract by The CDM Group, Inc. Historical data for the years 1996 through 2004 were obtained from Chen, Baker, and Li (2006). Data from January 1, 2005, until December 31, 2008, were obtained from the Insurance Institute for Highway Safety ([http://www.iihs.org/laws/pdf/us\\_licensing\\_systems.pdf](http://www.iihs.org/laws/pdf/us_licensing_systems.pdf)).

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## Policies Targeting Alcohol Availability

### Furnishing Alcohol to Minors

#### Policy Description

All states prohibit furnishing alcoholic beverages to minors by both commercial servers (bars, restaurants, retail sales outlets) and noncommercial servers. However, examination of case law would be required to determine with certainty that the prohibition applies to both commercial and noncommercial servers in all states. Additionally, most states include some type of exception (of the types listed below) to their furnishing laws.

Most underage persons obtain alcohol from adults, including parents, older siblings, peers, or strangers solicited to purchase alcohol for the minor. However, some underage persons purchase alcohol for themselves from merchants who fail to comply with laws prohibiting sale to minors or by using false ID (see the “False Identification” policy). These sources increase the availability of alcohol to youths, which, in turn, increases underage consumption. Prohibitions and associated sanctions on furnishing to underage persons can be expected to depress rates of furnishing by raising the monetary and social costs of this behavior. Such laws provide a primary deterrent (preventing furnishing) and a secondary deterrent (reducing the chances of persons sanctioned under these laws furnishing in the future).

Two types of exceptions to underage furnishing laws are discussed in this analysis:

1. Family exceptions permit parents, guardians, or spouses to furnish alcohol to minors; some states specify that the spouse must be of legal age and others do not.
2. Location exceptions permit furnishing alcohol in specified locations and may limit the extent to which family members can furnish to minors. No state has an exception for furnishing on private property by anyone other than a family member.

Some states provide sellers and licensees with one or more defenses against a charge of furnishing alcoholic beverages to a minor. Under these provisions, a retailer who provides alcohol to a minor will not be found in violation of the furnishing law if he or she can establish one of these defenses. This policy topic tracks one such defense: some states require that the minor who initiated a transaction be charged for possessing or purchasing the alcohol before the retailer can be found in violation of the furnishing law (see the “False Identification” policy for information on defenses associated with minors using false ID). Many states also have provisions that mitigate or reduce the penalties imposed on retailers if they have participated in responsible beverage service (RBS) programs; see the “Responsible Beverage Service” policy for further discussion.

In some states, furnishing laws are closely associated with laws that prohibit hosting underage drinking parties. These laws target hosts who allow underage drinking on property they own, lease, or otherwise control (see the “Hosting Underage Drinking Parties” policy for further discussion). Hosts of underage drinking parties who also supply the alcohol consumed or possessed by minors may be in violation of two distinct laws: (1) furnishing alcohol to minors and (2) allowing underage drinking to occur on property they control.

Also addressed in this chapter are social host liability laws, which impose civil liability on hosts for injuries caused by their underage guests. Although related to party hosting laws, social host liability laws are distinct. They do not establish criminal or civil offenses, but instead allow injured parties to recover damages by suing social hosts of events at which minors consumed alcohol and later were responsible for injuries. The commercial analog to social host liability laws is dram shop laws, which prohibit commercial establishments—bars, restaurants, and retail sales outlets—from furnishing alcoholic beverages to minors. See the “Social Host Liability” and “Dram Shop Liability” policies for further discussion.

## **Status of Underage Furnishing Policies**

### ***Exceptions to Furnishing Prohibitions***

As of January 1, 2017, all states prohibit the furnishing of alcoholic beverages to minors. Nineteen states and the District of Columbia have no family or location exceptions to this prohibition (see Exhibit I.17). Nineteen states have only a family exception. The remaining 12 states have a family exception limited to certain locations, such as any private residence or the parents’ homes.

### ***Affirmative Defense for Sellers and Licensees***

As of January 1, 2017, the underage furnishing laws of two states (Michigan and South Carolina) include provisions requiring that a seller/licensee be exonerated of charges of furnishing alcohol to a minor unless the minor involved is also charged.

### ***Trends in Underage Furnishing Policies***

As of January 1, 1998, all states prohibited underage furnishing and still do so, although a few states have added exceptions since then (see Exhibit I.18).

## **Data Sources and Citations**

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA’s APIS. See the policy titled “Furnishing Alcohol to Minors” for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Compliance Check Protocols

### Policy Description

Compliance checks involve an underage operative (a “decoy”)—working either with local law enforcement officials or with agents from the state alcoholic beverage control agency (ABC)—who enters an alcohol retail establishment and attempts to purchase an alcoholic beverage from a server, bartender, or clerk.

Protocols for these compliance checks vary from state to state, but in general follow a similar outline. An underage person (allowable ages vary by state) serves as a decoy. Decoys are generally instructed to act and dress in an age-appropriate manner. The decoy enters an alcohol retail outlet and attempts to purchase a predetermined alcohol product (e.g., a six-pack of beer at an off-sale establishment or a mixed drink at an on-sales establishment). Typically, an undercover enforcement officer from a local police department or the state ABC agency observes the decoy. Audio and video recording equipment may also be used or required. State rules vary regarding a decoy’s use of legitimate ID cards (driver’s licenses, etc.), although a few states allow decoys to verbally exaggerate their age. If a purchase is made successfully, the establishment and the clerk or server may be subject to an administrative or criminal penalty.

Most, but not all, states permit law enforcement agencies to conduct compliance checks on a random basis. A few states permit the checks only when there is a basis for suspecting that a particular licensee has sold alcohol to a minor in the past. To ensure that state and local law enforcement agencies are following uniform procedures, most states issue formal compliance check protocols or guidelines. If the protocols are not followed, then the administrative action against the licensee may be dismissed. The protocols are therefore designed to ensure that law enforcement actions are fair and reasonable and to provide guidelines to licensees for avoiding prosecution.

Compliance checks of off- and on-premises licensed alcohol retailers are an important community tool for reducing illegal alcohol sales to minors and promoting community normative change. The 2004 National Research Council (NRC)/IOM report, *Reducing Underage Drinking: A Collective Responsibility* (2004), calls for (a) regular, random compliance checks; (b) administrative penalties, including fines and license suspensions that increase with each offense; (c) enhanced media coverage for the purposes and results of compliance checks; and (d) training for alcohol retailers regarding their legal responsibility to avoid selling alcohol to underage youths.

Compliance checks have both educational and behavior change goals:

1. Change or reinforce social norms that underage drinking is not acceptable by publicizing noncompliant retailers.
2. Educate the community—including parents, educators, and policymakers—about the ready availability of alcohol to youth, which may not be considered a major issue.
3. Increase alcohol retailers’ perception that violation of sales to minors laws will be detected and punished, creating a deterrent effect.
4. Decrease the likelihood that retailers will sell alcohol to minors, thereby reducing youth access to alcohol.

Numerous studies support the contribution of compliance checks to reducing underage access to alcohol. During the early to mid-1990s, before systematic compliance check programs were widely implemented, studies indicated that underage buyers were able to purchase alcohol without showing age identification in 47 to 97 percent of attempts (Preusser & Williams, 1992; Wagenaar & Wolfson, 1995). Observed rates of compliance have increased since then, and several studies suggest that the use of compliance checks does lead to reductions in sales to underage buyers. For example, Grube (1997) demonstrated that outlets subject to compliance checks were about half as likely to sell alcohol on a post-test purchase survey as outlets in the comparison sites. Similarly, in Concord, New Hampshire, sales to youth decreased from 28 percent to 10 percent after quarterly compliance checks (coupled with increased penalties and a media campaign) at 539 off-premises alcohol establishments (CDC, 2004). And in a large study in Minnesota, sales to youth were reduced immediately by 17 percent in alcohol establishments that experienced a check (Wagenaar, Toomey, & Erickson, 2005).

Additional analyses also found that establishments situated near another neighborhood establishment that had been checked within the last 90 days were less likely to sell alcohol to young-appearing buyers, but that these effects decay rapidly over time (Erickson, Smolenski, Toomey, Carlin, & Wagenaar, 2013). The 2016 *Surgeon General's Report on Alcohol, Drugs, and Health* found that compliance checks are an effective strategy for reducing alcohol consumption by minors and can be implemented in conjunction with other population-level alcohol policies (HHS, 2016).

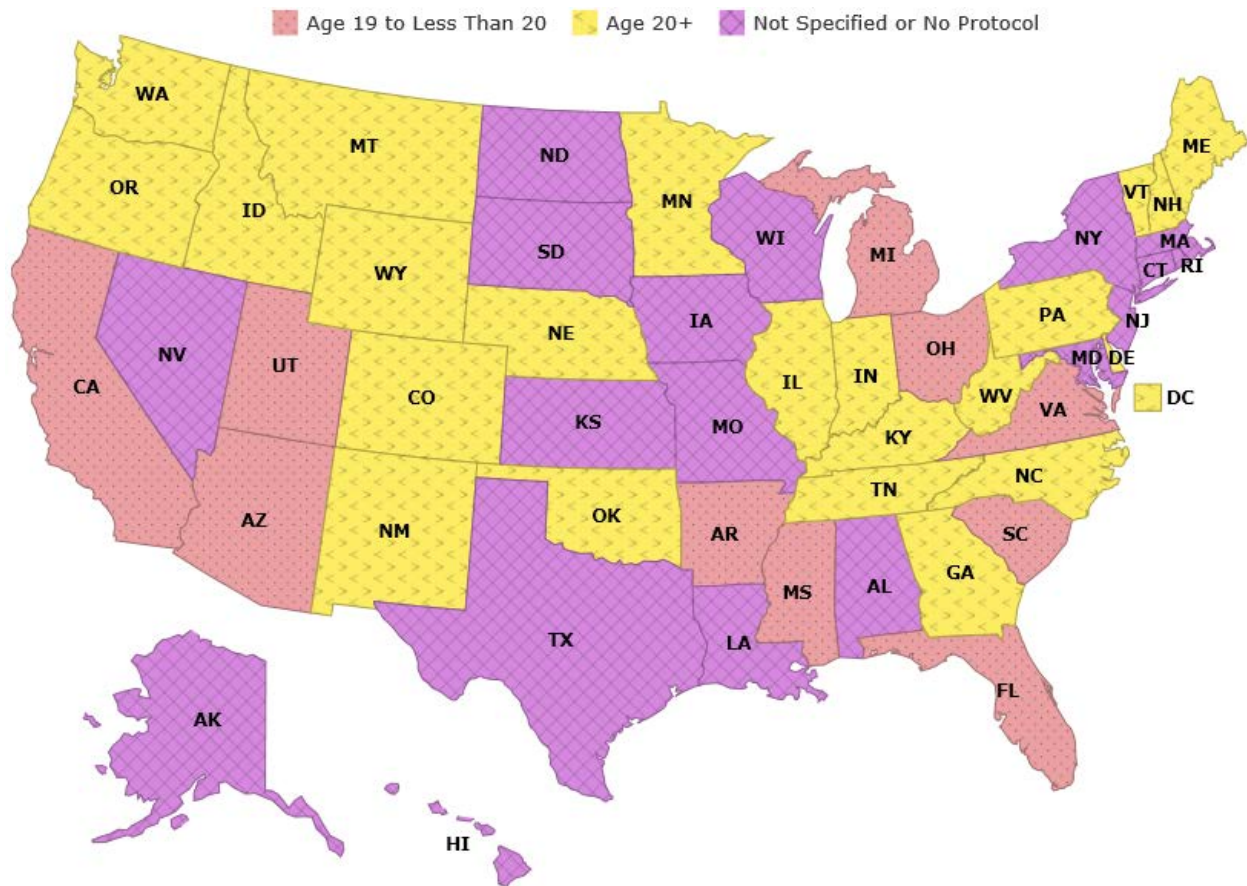
### **Status of Compliance Check Protocols**

Data for this policy were coded from formal compliance check protocols or guidelines. A total of 36 states have formal, written protocols; the remaining states either do not have these protocols or these protocols are not readily available to the public. Compliance check protocols are generally issued by the state police or the state ABC agency. Guidelines vary somewhat in specificity and detail, possibly reflecting differences in the purposes of the checks and the evidentiary standards in each jurisdiction.

The maximum age of the decoy varies from 19 to 21 (only one state lists 21 as the maximum age), with the majority of states requiring that the maximum age of the decoy be 20 (see Exhibit I.19). The minimum age of the decoy ranges from 15 to 18, with 14 states requiring 18 as the minimum age of the decoy.

Thirty-one jurisdictions have guidelines for the decoys' appearance (e.g., appropriately dressed for age, and no hats, excessive makeup, or facial hair). These requirements vary widely by state. At least one state uses an age panel to ensure that the decoys appear underage. Five states allow decoys to verbally exaggerate their age in some situations. Decoy training is mandatory in 15 states. Thirteen states require decoys to have valid identification in their possession at the time of the check while five states prohibit decoys from carrying identification with them during a compliance check.

### Exhibit I.19: Maximum Age of Compliance Check Decoys in 2017



#### Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For further information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## Penalty Guidelines for Sales/Service to Minors

### Policy Description

In the majority of states, alcoholic beverage control (ABC) agencies are responsible for adjudicating administrative charges against licensees, including violations for sales or service to those under age 21. Alcohol law enforcement seeks to increase compliance with laws by increasing the level of perceived risk of detection and sanctions. Such deterrence involves three key components: (1) perceived likelihood that a violation will lead to apprehension and sanction; (2) swiftness with which the sanction is imposed; (3) and severity of the sanction (Ross, 1992).

As stated in the 2004 NRC/IOM report, *Reducing Underage Drinking: A Collective Responsibility*, the effectiveness of alcohol control policies depends heavily on the “intensity of implementation and enforcement and on the degree to which the intended targets are aware of both the policy and its enforcement.” The report recommends that “enforcement agencies should issue citations for violations of underage sales laws, with substantial fines and temporary suspension of license for first offenses and increasingly stronger penalties thereafter, leading to permanent revocation of license after three offenses” (NRC & IOM, 2004). See above for a more comprehensive review of enforcement and deterrence research and strategies.

Although alcohol law enforcement agencies may issue the citations, adjudication of the cases is usually handled by another division or agency. States typically include administrative penalties in their statutory scheme prohibiting sales to minors. Penalty provisions are usually broad, allowing for severe penalties but delegating responsibility for determining actual penalties in particular cases to the ABC agencies or to other agencies responsible for adjudicating the cases. Penalties may include warning letters, fines, license suspensions, a combination of fines and suspensions, or license revocation. Agencies may consider both mitigating and aggravating circumstances as well as the number of violations within a given time period, with repeat offenders usually receiving more severe sanctions.

Many ABC agencies issue penalty guidelines to alert licensees to the sanctions that will be imposed for first, second, and subsequent offenses, providing a time period for determining repeat offenses. The agency may treat the guidelines as establishing a set penalty or range of penalties or may treat them as providing guidance, allowing for deviation at the agency’s discretion.

Penalty guidelines that establish firm, relatively severe penalties (particularly for repeat offenders) can increase the deterrent effect of the policy and its enforcement and can increase licensees’ awareness of the risks associated with violations.

### Status of Penalty Guidelines for Sales/Service to Minors

At least 28 jurisdictions have defined administrative penalty guidelines for licensees that sell alcohol to an underage youth (see Exhibit I.20). The remaining 23 states either do not have penalty guidelines or do not make them readily available to the public. The guidelines may be based on statute, regulations, and internal policies developed by the agency.



to up to a 30-day suspension for first offenses. See Chapter III below for a review of penalties actually imposed by states for selling to and serving minors.

### **Data Sources and Citations**

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For further information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

Barry, R. (2004). Enhanced enforcement of laws to prevent alcohol sales to underage persons: New Hampshire, 1999–2004. *MMWR: Morbidity and Mortality Weekly Report*, 53, 452–454.

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## Responsible Beverage Service Training

### Policy Description

Responsible beverage service (RBS) training policies require or incentivize retail alcohol outlets to train licensees, managers, and servers/sellers to effectively implement policies and procedures that prevent alcohol sale and service to minors and intoxicated persons.

Server/seller training focuses on procedures for serving, selling, and checking age identification, along with techniques for recognizing signs of intoxication and intervening with intoxicated patrons. Manager training includes server/seller training, policy and procedures development, and staff supervision. RBS programs typically have distinct training curricula for on- and off-sale establishments because of the differing characteristics of these retail environments. All RBS programs focus on preventing sales and furnishing to minors.

RBS training can be mandatory or voluntary. A program is considered mandatory if state provisions require at least one specified category of individual (e.g., servers/sellers, managers, or licensees) to attend training. States may have either mandatory programs, voluntary programs, or both. For example, a state may make training for new licensees mandatory while also offering voluntary programs for existing licensees. Alternatively, a state may have a basic mandatory program while also offering a more intensive voluntary program that provides additional benefits for licensees choosing to participate in both.

States with voluntary programs usually provide incentives for retailers to participate in RBS training but do not impose penalties for those who decline involvement. Incentives vary by state and include (a) a defense in dram shop liability lawsuits (cases filed by injured persons against retail establishments that provided alcohol to minors or intoxicated persons who later caused injuries to themselves or third parties); (b) discounts for dram shop liability insurance; (c) mitigation of fines or other administrative penalties for sales to minors or sales to intoxicated persons; and (d) protection against license revocation for sales to minors or intoxicated persons.

See the “Dram Shop Liability” policy for further discussion. The “Furnishing of Alcohol to Minors” policy discussion has additional information regarding prevention of alcohol sales to minors, and the “False Identification” policy discussion includes materials related to age identification policies.

### Status of Responsible Beverage Service Training Policies

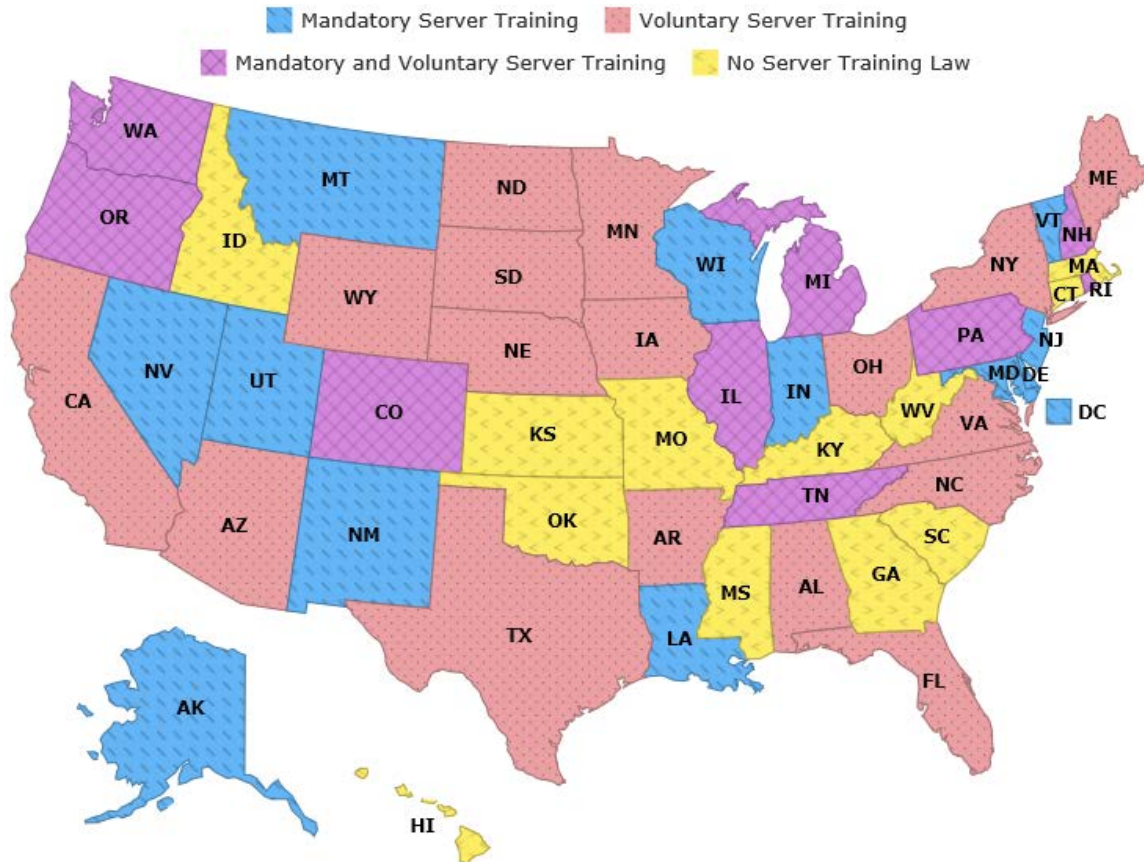
As of January 1, 2017, 38 states and the District of Columbia have some type of RBS training provision (see Exhibit I.21). Of these, 12 states and the District of Columbia have mandatory provisions, 17 states have voluntary provisions, and 9 states have both. The nine states that have both mandatory and voluntary provisions are Colorado, Illinois, Michigan, New Hampshire, Oregon, Pennsylvania, Rhode Island, Tennessee, and Washington.

Of the 22 jurisdictions with mandatory provisions, some apply their provisions to both on-sale (e.g., bars and restaurants) and off-sale (e.g., liquor stores) establishments, whereas some apply to either on-sale or off-sale establishments. Some of the mandatory jurisdictions apply their provisions to both new and existing establishments, whereas others apply them to either existing or new establishments.

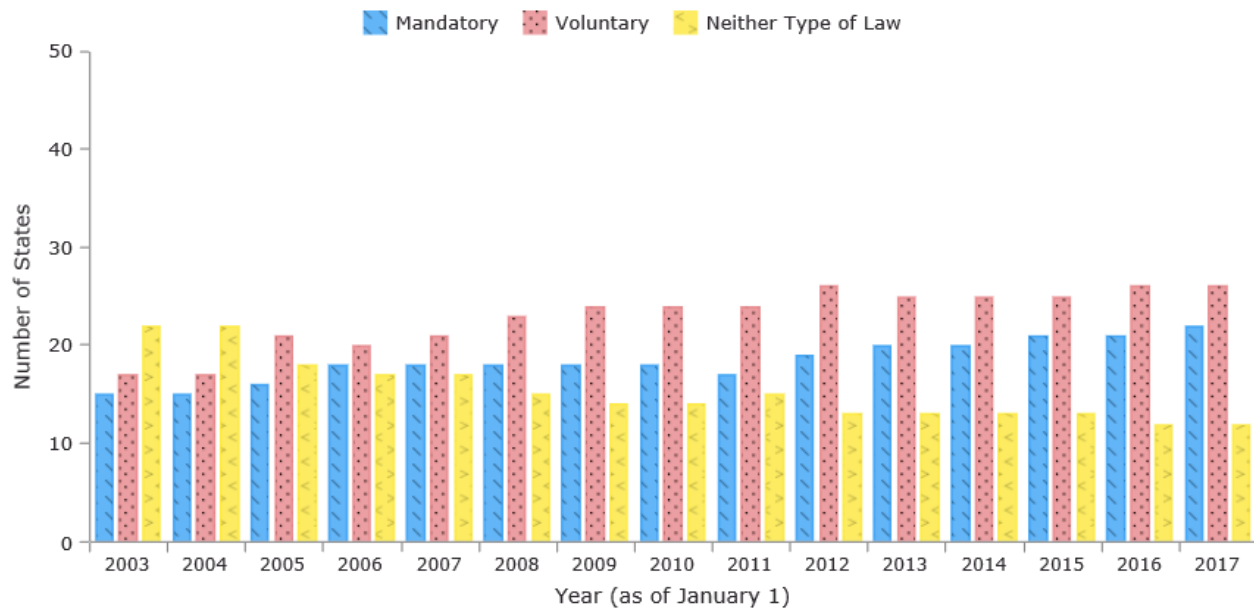
### Trends in RBS Policies

Between 2003 and 2017, the number of jurisdictions with mandatory policies increased from 15 to 22, and the number of states with voluntary policies rose from 17 to 26 (see Exhibit I.22). The number of states with no RBS training policy decreased from 22 to 12.

**Exhibit I.21: Responsible Beverage Service as of January 1, 2017**



### Exhibit I.22: Number of States with Responsible Beverage Service, January 1, 2003, through January 1, 2017



#### Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Beverage Service Training and Related Practices" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Minimum Ages for Off-Premises Sellers

### Policy Description

Most states have laws that specify a minimum age for employees who sell alcoholic beverages in off-premises establishments such as liquor stores. In some states, the minimum age for sellers is 21. In many states, however, off-premises sellers may be younger than 21, and in a few states no minimum age is specified.

In some cases, persons under 21 may be allowed to sell alcohol only in certain types of off-premises establishments (e.g., grocery stores, convenience stores), or may be allowed to sell only some beverage types (e.g., beer, wine). In some cases, sellers of alcohol must be at least 18, but younger employees may be allowed to stock coolers with alcohol or to bag purchased alcohol.

Several states place conditions on off-premises sellers under 21 years old. These include requirements that a legal-age manager or supervisor be present when the underage person is selling alcoholic beverages.

State laws specifying the minimum age for employees who sell alcoholic beverages for on-premises consumption are described in the “Minimum Ages for On-Premises Servers and Bartenders” policy.

### Status of Age of Seller Policies

#### *Minimum Age of Sellers and Types of Beverages*

Most jurisdictions specify the same minimum age for sellers of all types of alcoholic beverages (see Exhibit I.23). As of January 1, 2017, 10 states specify that off-premises sellers be 21 or older. Two states (Idaho and Indiana) require off-premises sellers to be 19 or older; 19 states and the District of Columbia have set the minimum age at 18. Nine states set the minimum age between 15 and 17. Ten states do not specify any minimum age for sellers.

Among states with requirements, the minimum age varies by type of alcohol, with age requirements generally higher for the sale of distilled spirits and lower for beer.

#### *Manager or Supervisor Presence*

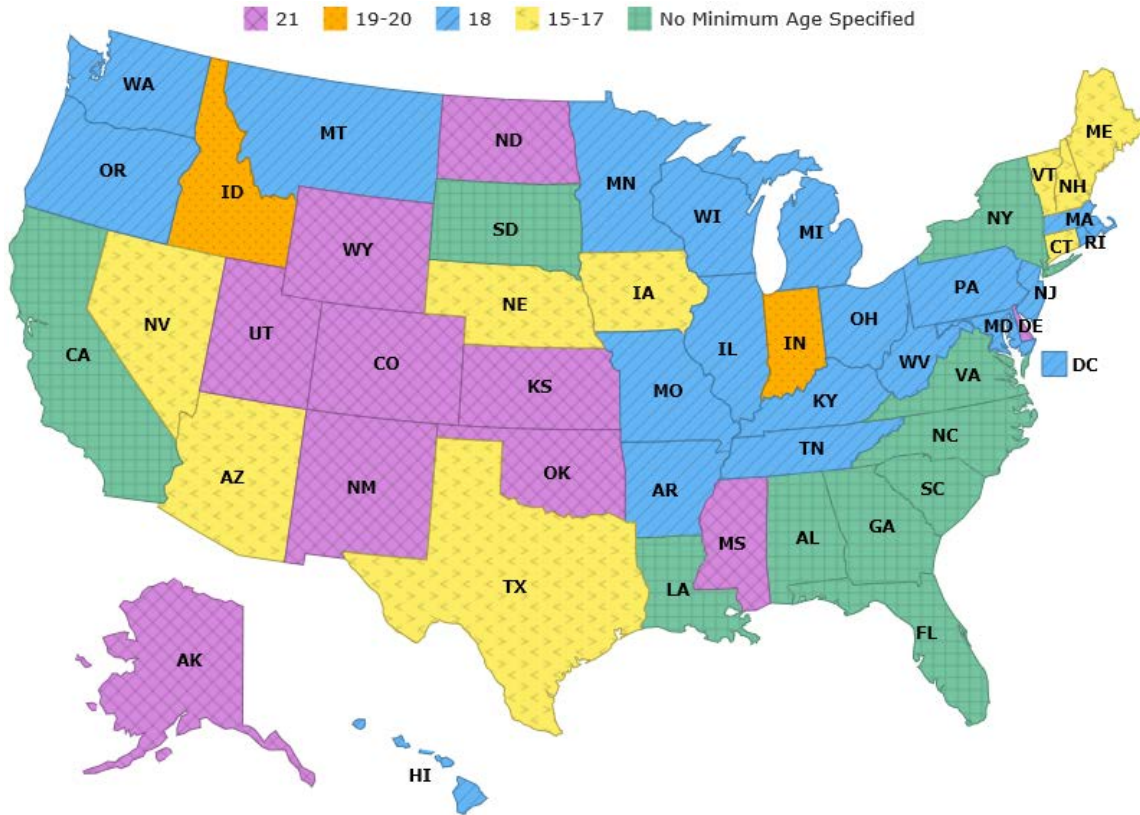
Fourteen states require that a supervisor or manager be present when an underage seller conducts an alcoholic beverage transaction.

### Trends in Age of Seller Policies

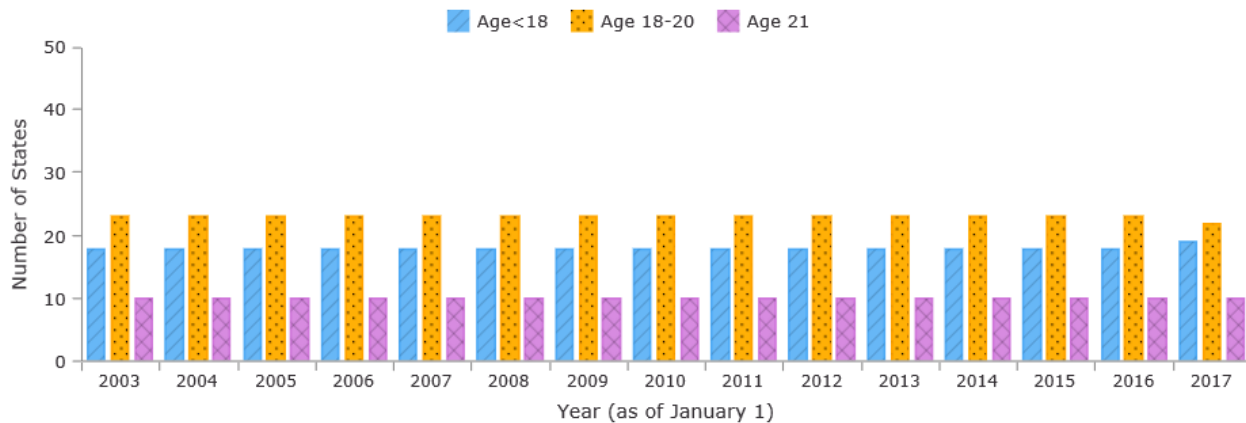
There were no changes in age of seller policies across states between 2003 and 2016. As of January 1, 2017, Connecticut added a “manager or supervisor presence” to their Age of Seller, Off-Premises requirement, and Nebraska reduced the minimum age of seller age for beer, wine, and distilled spirits from 19 to 16 (see Exhibit I.24).



**Exhibit I.23: Minimum Age To Sell Beer for Off-Premises Consumption as of January 1, 2017**



**Exhibit I.24: Distribution of Minimum Ages for Off-Premises Sellers of Beer, January 1, 2003, through January 1, 2017**



## Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Minimum Ages for Off-Premises Sellers" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

- Fell, J. C., Scherer, M., & Voas, R. (2015). The utility of including the strengths of underage drinking laws in determining their effect on outcomes. *Alcoholism: Clinical and Experimental Research*, 39(8), 1528–1537.
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## Minimum Ages for On-Premises Servers and Bartenders

### Policy Description

All states specify a minimum age for employees who serve or dispense alcoholic beverages. Generally, the term “servers” refers to waitpersons, and “bartenders” refers to individuals who dispense alcoholic beverages. These restrictions recognize that underage employees, particularly those who are unsupervised, may lack the maturity and experience to conduct adequate checks of age identification and to resist pressure from underage peers to complete illegal sales.

States vary widely in terms of minimum age requirements for servers and bartenders. In some states, the minimum age for both types of employee is 21, but others set lower minimum ages, particularly for servers. No state permits underage bartenders while prohibiting underage servers. Some states permit servers or bartenders younger than 21 to work only in certain types of on-premises establishments, such as restaurants, or to serve only certain beverage types, such as beer or wine. Underage servers and bartenders may be allowed only if legal-age managers or supervisors are present when underage persons are serving alcoholic beverages or tending bar. State laws setting a minimum age for employees who sell alcohol at off-premises establishments are described in the “Minimum Ages for Off-Premises Sellers” policy.

### Status of Age of Server Policies

#### *Age of Servers*

As of January 1, 2017, Alaska, Nevada, and Utah specify that on-premises alcohol servers of beer, wine, or distilled spirits must be 21 or older (see Exhibit I.25). Only one state (Maine) allows 17-year-olds to be servers. Ten states specify that servers be at least 19 or 20, and the remaining 36 states and the District of Columbia allow 18-year-old servers.

#### *Age of Bartenders*

Minimum ages for bartenders are generally higher than for servers across the states. Nineteen states and the District of Columbia limit bartending to persons 21 or older. Twenty-five states allow 18-year-olds to bartend for at least some beverage types, while only one state (Maine) allows 17-year-olds to bartend. Minimum ages for serving beer, wine, and distilled spirits are identical in most states; however, Maryland, North Carolina, and Ohio have age requirements that differ by alcohol type.

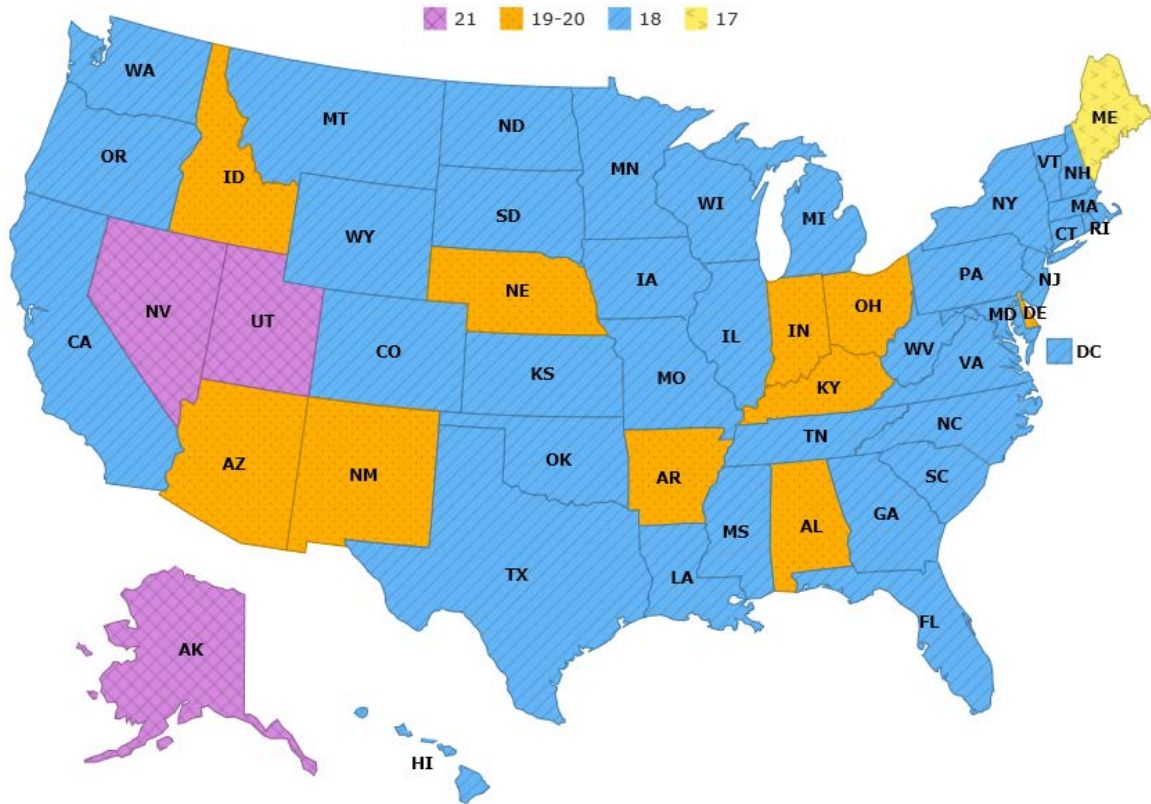
#### *Manager or Supervisor Presence*

Ten states require that a supervisor or manager be present when an underage seller conducts an alcoholic beverage transaction.

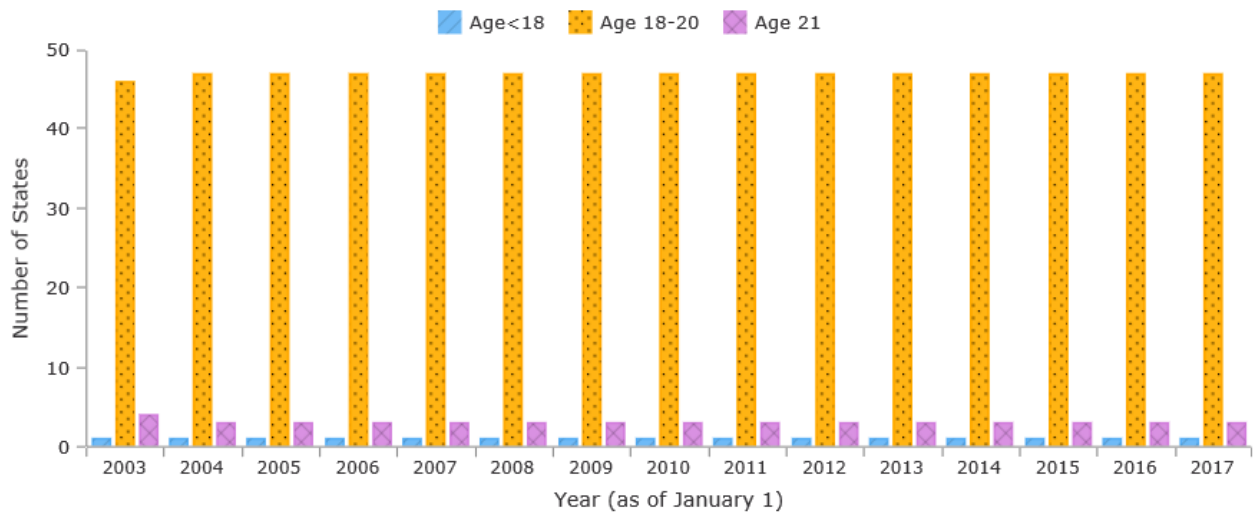
### Trends in Age of Server Policies

State policies for ages of servers and bartenders in on-premises establishments have been generally stable over the last decade (see Exhibit I.26). Between 2003 and 2017, Arkansas lowered its minimum age for servers from 21 to 19, and North Dakota lowered its age for servers from 19 to 18.

**Exhibit I.25: Minimum Ages for On-Premises Servers (Beer) as of January 1, 2017**



**Exhibit I.26: Distribution of Minimum Ages for On-Premises Servers of Beer, January 1, 2003, through January 1, 2017**



## Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Minimum Ages for On-Premises Servers and Bartenders" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

- Fell, J. C., Scherer, M., & Voas, R. (2015). The utility of including the strengths of underage drinking laws in determining their effect on outcomes. *Alcoholism: Clinical and Experimental Research*, 39(8), 1528–1537.
- Fell, J. C., Scherer, M., Thomas, S., & Voas, R. (2016). Assessing the impact of twenty underage drinking laws. *Journal of Studies on Alcohol and Drugs*, 77(2), 249–260.
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## Distance Limitations Applied to New Alcohol Outlets Near Universities, Colleges, and Primary and Secondary Schools

### Policy Description

Policies that limit the placement of retail alcohol outlets near colleges and schools are designed to make alcohol less accessible to youth by keeping alcohol sales physically distant from locations where underage people congregate. In addition, such policies aim to reduce the social availability of alcohol by limiting youth exposure to alcohol consumption.

### Outlets Near Colleges and Universities

Alcohol outlet density in general is linked to excessive alcohol consumption and related harms according to research collected and evaluated by the Community Preventive Services Task Force and presented in the *Community Guide* (Campbell et al., 2009; Task Force on Community Preventive Services, 2009). The *Community Guide* recommends the use of regulatory authority—for example through zoning and licensing—to reduce alcohol outlet density.

Limiting the location of retail outlets near colleges and universities and their high concentrations of underage drinkers is one way to implement this recommendation in a high-risk setting. The NIAAA publication, *A Call to Action: Changing the Culture of Drinking at U.S. Colleges*, includes limiting alcohol outlet density as an evidence-based, recommended strategy for reducing college drinking (NIAAA, 2002).

Research shows a correlation between underage drinking and retail outlet density near college and university campuses. In a study of eight universities, outlet density was correlated with heavy and frequent drinking among college students, including underage students (Weitzman, Folkman, Folkman, & Wechsler, 2003). Another study found that both on- and off-premises alcohol outlet densities were associated with campus rape offense rates; the effect of on-campus densities was reduced when student drinking levels were considered (Scribner et al., 2010).

A third study examined “secondhand” effects of drinking on residential neighborhoods near college campuses, and concluded that limiting the number of outlets near colleges, particularly those colleges with high rates of binge drinking, could mitigate the secondhand effects (Wechsler, Lee, Hall, Wagenaar, & Lee, 2002). A 1996 study found higher rates of drinking and binge drinking among college students when there were higher numbers of alcohol outlets within one mile of campus (Chaloupka & Wechsler, 1996).

### Outlets Near Primary and Secondary Schools

Limiting outlets near primary and secondary schools is another way to reduce alcohol outlet density in a high-risk setting of underage drinking, although there is no nationwide research comparable to that for universities that focuses specifically on the relationship between drinking by K–12 students and the proximity of alcohol outlets to their schools. However, a 2016 study of more than 25,000 Maryland high school students found a positive relationship between the number of alcohol outlets near a school and the perceived availability of alcohol, tobacco, and other drugs among girls (Milam, Lindstrom Johnson, Furr-Holden & Bradshaw, 2016). Perceived availability was associated with self-reported substance use.

## **Types of Outlet Density Restrictions**

Outlet density restrictions typically require that alcohol outlets be located a certain distance from a school. Such restrictions may regulate the location of retail outlets near colleges and universities, near primary and secondary schools, or near both categories of schools. Some restrictions limit the sale of alcohol directly on university campuses. Outlet density restrictions may apply to off- and on-premises retailers, or both types of retailers. Restrictions may also apply to the sale of beer, wine, spirits, or some combination of the three.

Distance requirements vary widely, from 100 feet (the distance a primary or secondary school in Illinois must be from an off-premises outlet) to 1.5 miles (the distance a university in California must be from an outlet selling wine or spirits). Restrictions that mandate greater distances are more likely to promote the goals of keeping alcohol away from underage drinkers and reducing their exposure to alcohol marketing.

Distance restrictions apply to the issuance of new licenses, and retail alcohol outlets that were in business prior to the enactment of the restriction may still be allowed to operate within the restricted zone. In these cases, the distance restriction would prevent increased alcohol outlet density without necessarily reducing density or eliminating the presence of retail establishments in the restricted zone.

## **Status of Outlet Density Restrictions**

### ***Colleges and Universities***

Twelve states have some type of restriction on outlet density near colleges and universities, whereas 39 have no restrictions. Of the 12 states with restrictions, 11 have restrictions that apply to both on- and off-premises outlets. Kansas' restriction applies only to off-premises outlets.

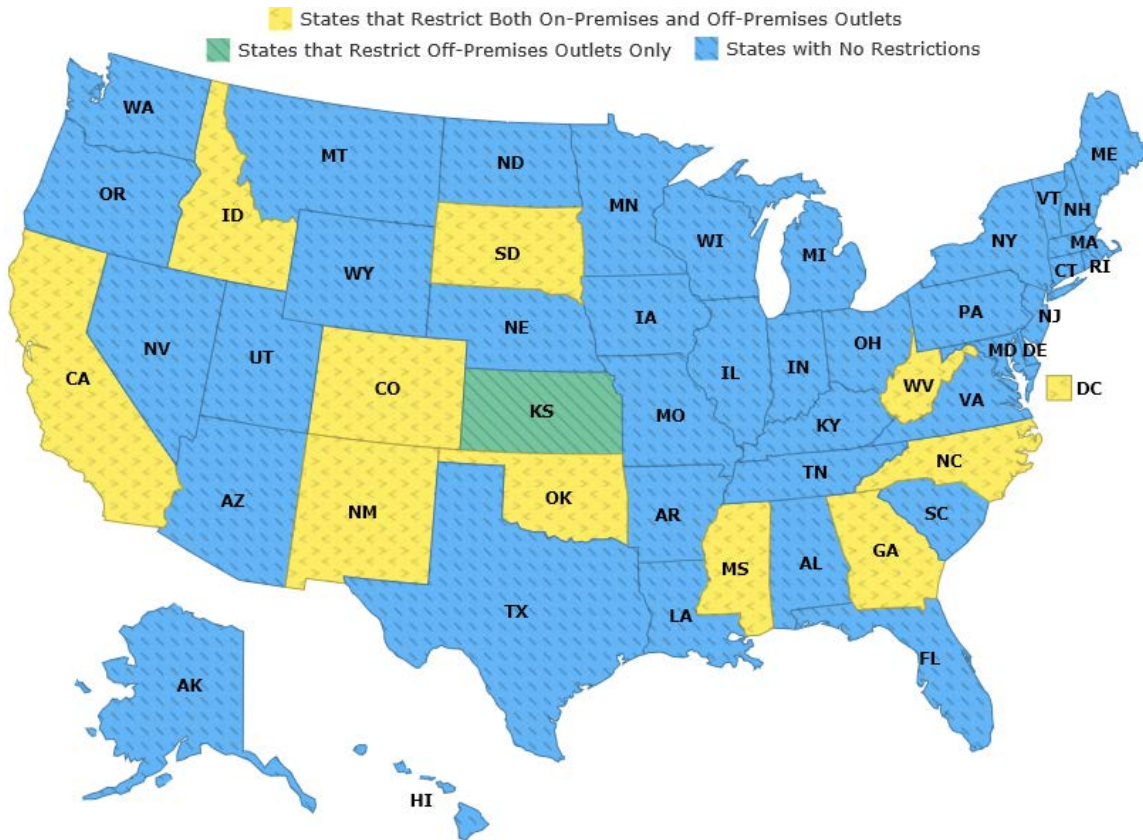
Nearly all of the restrictions apply to beer, wine, and spirits. California's and Mississippi's restrictions apply only to wine and spirits, North Carolina's restriction applies to beer and wine, and West Virginia's applies only to beer. Exhibit I.27 draws attention to states with restrictions on colleges and universities and shows whether restrictions apply to off- or on-premises outlets.

### ***Primary and Secondary Schools***

Many more states have laws restricting outlet location near primary and secondary schools: 31 states have some restriction, whereas 20 states have none. Of the 31 states restricting outlet location, 23 apply restrictions to both off- and on-premises locations. Restrictions apply only to on-premises locations in six states: Florida, Hawaii, Idaho, Maine, Montana, and Rhode Island. Arkansas and Kansas restrict only off-premises locations.

Most of the restrictions apply to beer, wine, and spirits. Restrictions in Arkansas, New York, Mississippi, and Wisconsin apply to wine and spirits; North Carolina's restrictions apply only to beer and wine, and West Virginia's restrictions apply only to beer. Exhibit I.28 shows the states with restrictions on primary and secondary schools and shows whether the restrictions apply to off- or on-premises outlets.

### Exhibit I.27: States with Restrictions on Placement of Retail Outlets Near Colleges and Universities



#### Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## Dram Shop Liability

### Policy Description

Dram shop liability refers to the civil liability that commercial alcohol providers face for injuries or damages caused by their intoxicated or underage drinking patrons.<sup>6</sup> The analysis here is limited to alcohol service to minors. The typical factual scenario in legal cases arising from dram shop liability is a licensed retail alcohol outlet furnishing alcohol to a minor who, in turn, causes an alcohol-related motor vehicle crash that injures a third party.

In states with dram shop liability, the injured third party (“plaintiff”) may be able to sue the retailer (as well as the minor who caused the crash) for monetary damages. Liability comes into play only if an injured private citizen files a lawsuit. The state’s role is to provide a forum for such a lawsuit; the state does not impose a dram shop–related penalty directly. (This distinguishes dram shop liability from the underage furnishing policy, which results in criminal liability imposed by the state.)

Dram shop liability is closely related to the policy on furnishing alcohol to minors, but the two topics are distinct. Retailers who furnish alcohol to minors may face fines or other punishment imposed by the state as well as dram shop liability lawsuits filed by parties injured as a result of the same incident. Dram shop liability and social host liability (presented elsewhere in this report) are identical, except that the former involves lawsuits filed against commercial alcohol retailers and the latter involves lawsuits filed against noncommercial alcohol providers.

Dram shop liability serves two purposes: (1) it creates a disincentive for retailers to furnish to minors because of the risk of litigation leading to substantial monetary losses, and (2) it allows parties injured as a result of an illegal sale to a minor to gain compensation from those responsible for the injury. The minor causing the injury is the primary and most likely party to be sued. Typically, the retailer is sued through a dram shop claim when the minor does not have the resources to fully compensate the injured party.

Dram shop liability is established by statute or by a state court through “common law.” Common law is the authority of state courts to establish rules by which an injured party can seek redress against the person or entity that negligently or intentionally caused injury. Courts can establish these rules only when the state legislature has not enacted its own statutes, in which case the courts must follow the legislative dictates (unless found to be unconstitutional). Thus, dram shop statutes normally take precedence over dram shop common law court decisions. This analysis includes both statutory and common law dram shop liability for each state.

A common law liability designation signifies that the state allows lawsuits by injured third parties against alcohol retailers for the negligent service or provision of alcohol to a minor. Common law liability assumes the following procedural and substantive rules:

1. A negligence standard applies (i.e., the defendant did not act as a reasonable person would be expected to act in like circumstances). Plaintiffs need not show that the defendant acted intentionally, willfully, or with actual knowledge of the minor’s underage status.

<sup>6</sup> Dram shops were retail establishments that sold distilled spirits by the “dram,” a liquid measure that equals 1 ounce. This form of liability is also known as “commercial host liability.”

2. Damages are not arbitrarily limited. If negligence is established, the plaintiff receives actual damages and can seek punitive damages.
3. Plaintiffs can pursue claims against defendants without regard to the age of the person who furnished the alcohol and the age of the underage person furnished with the alcohol.
4. Plaintiffs must establish only that minors were furnished alcohol and that the furnishing contributed to the injury without regard to the minor's intoxicated state at the time of sale.
5. Plaintiffs must establish key elements of the lawsuit via "preponderance of the evidence" rather than a more rigorous standard (e.g., "beyond a reasonable doubt").

A statutory liability designation indicates that the state has a dram shop statute. Statutory provisions can alter the common law rules listed above, restricting an injured party's ability to make successful claims. This analysis includes three of the most important statutory limitations:

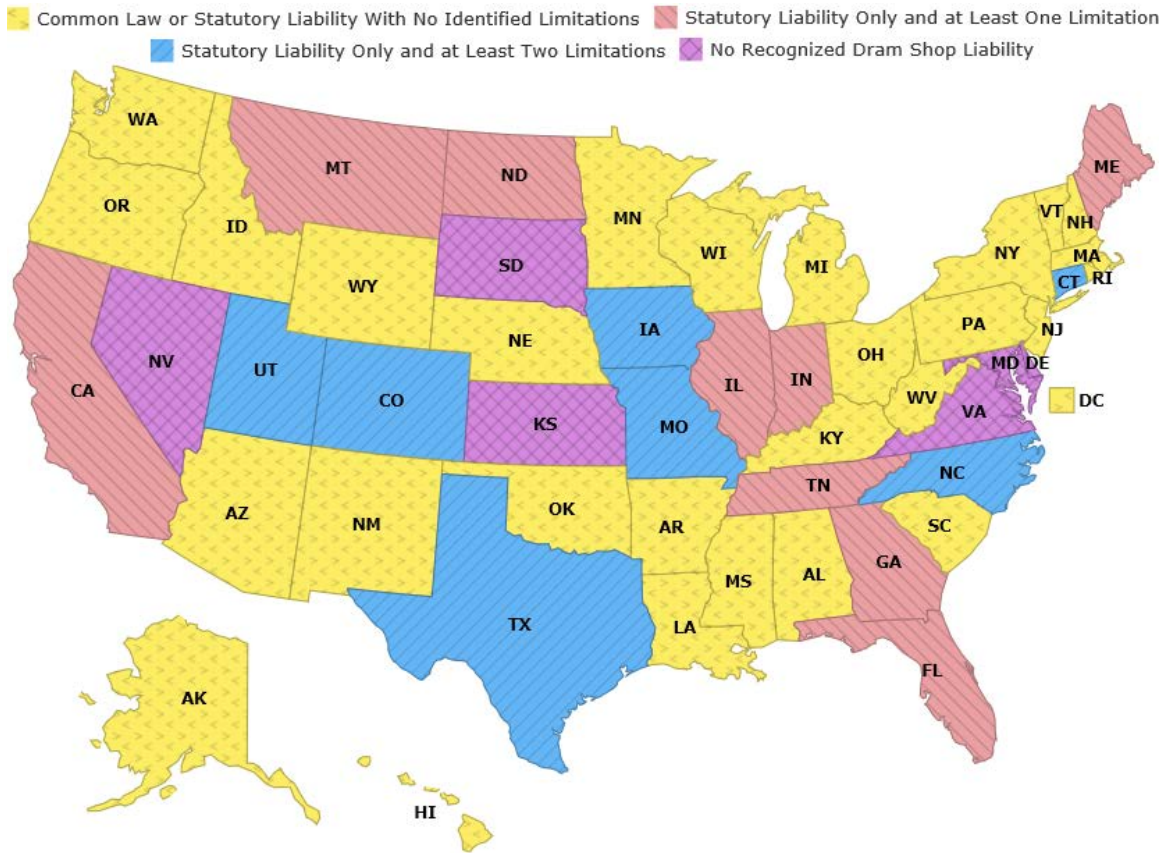
1. Limitations on damages: Statutes may impose statutory caps on the total dollar amount that plaintiffs may recover through dram shop lawsuits.
2. Limitations on who may be sued: Potential defendants may be limited to only certain types of retail establishments (e.g., on-premises but not off-premises licensees), or certain types of servers (e.g., servers above a certain age).
3. Limitations on elements or standards of proof: Statutes may require plaintiffs to prove additional facts or meet a more rigorous standard of proof than would normally apply in common law. Statutory provisions may require a plaintiff to:
  - a. Establish that the retailer knew the minor was underage or that the retailer intentionally or willfully served the minor.
  - b. Establish that the minor was intoxicated at the time of sale or service.
  - c. Provide clear and convincing evidence or evidence beyond a reasonable doubt that the allegations are true.

These limitations can restrict circumstances that can give rise to liability or greatly diminish a plaintiff's chances of prevailing in a dram shop liability lawsuit, thus reducing the likelihood of a lawsuit being filed. Other restrictions may also apply. For example, many states do not allow "first-party claims," cases brought by the person who was furnished alcohol for his or her own injuries. These additional limitations are not discussed here.

Some states have enacted responsible beverage service (RBS) affirmative defenses. In these states, a defendant can avoid liability if it can establish that its retail establishment had implemented an RBS program and was adhering to RBS practices at the time of the service to a minor. Texas has enacted a more sweeping RBS defense. There, a defendant licensee can avoid liability if it establishes that (a) it did not encourage the illegal sale, and (b) it required its staff, including the server in question, to attend RBS training. Proof that RBS practices were being adhered to at the time of service is not required.

See the "RBS Training" policy topic for more information.

### Exhibit I.29: Common Law/Statutory Dram Shop Liability and Limitations as of January 1, 2017



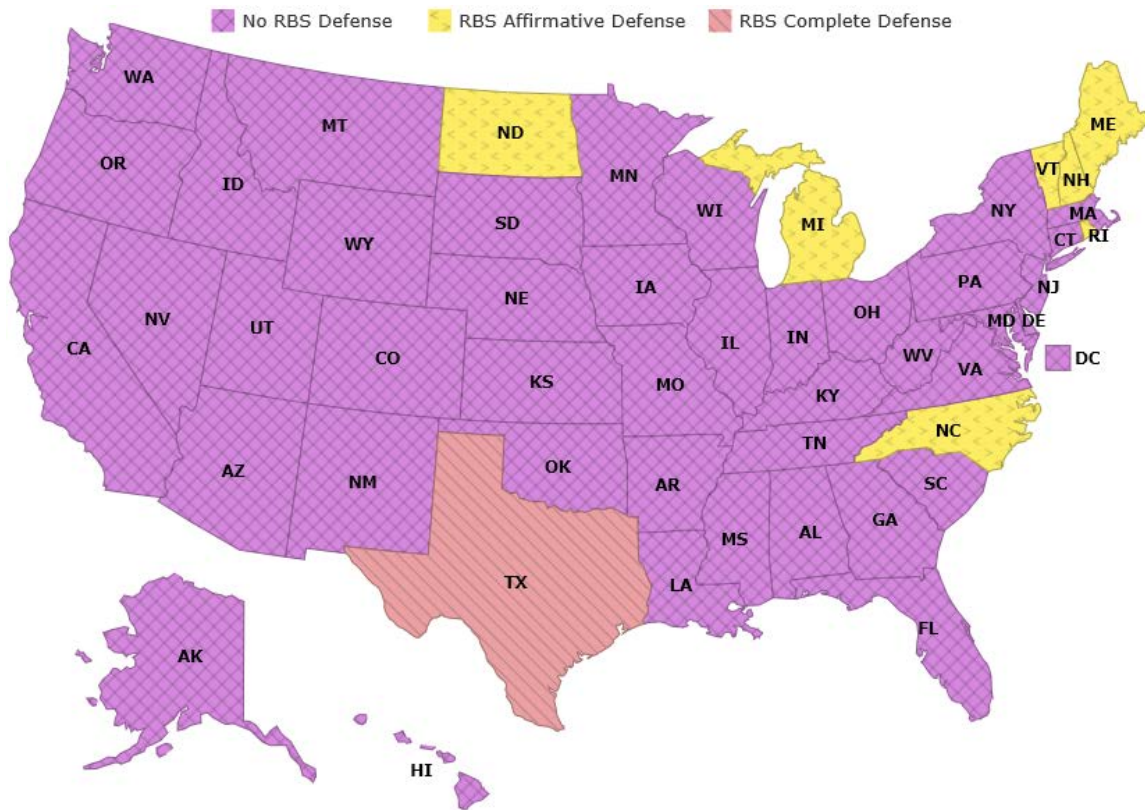
#### Status of Dram Shop Liability

As of January 1, 2017, 45 jurisdictions imposed dram shop liability as a result of statutory or common law or both (see Exhibit I.29). The District of Columbia and 28 states have either common law liability or statutory liability or both with no identified limitation. The remaining 16 states impose one or more limits on statutory dram shop liability, including limits on the damages that may be recovered, limits on who may be sued, and stricter standards for proof of wrongdoing than for usual negligence. Eight states provide an RBS defense for alcohol outlets (see Exhibit I.30). Seven states provide an affirmative RBS defense, and one state provides a complete RBS defense.

#### Trends in Dram Shop Liability for Furnishing Alcohol to a Minor

Between 2009 and 2017, the number of jurisdictions that permit dram shop liability remained constant.

### Exhibit I.30: Responsible Beverage Service Program Defenses Against Dram Shop Liability Across the United States as of January 1, 2017



#### Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## Social Host Liability

### Policy Description

Social host liability refers to the civil liability that noncommercial alcohol providers face for injuries or damages caused by their intoxicated or underage drinking guests. The analysis here does not address social host liability for serving adult guests.

The typical factual scenario in legal cases arising from social host liability involves an underage drinking party at which the party host furnishes alcohol to a minor who, in turn, injures a third party in an alcohol-related incident (often a motor vehicle crash). In states with social host liability, injured third parties (“plaintiffs”) may be able to sue social hosts (as well as the minor who caused the crash) for monetary damages. Liability comes into play only if injured private citizens file lawsuits. The state’s role is to provide a forum for such lawsuits; the state does not impose social host-related penalties directly. (As discussed below, this distinguishes social host liability from underage furnishing and host party policies, which can result in criminal liability imposed by the state and are discussed under “Furnishing Alcohol to Minors” above and “Hosting Underage Drinking Parties” below.)

Social host liability is closely related to the underage furnishing and host party policies, but the three are distinct. Underage furnishing policies and host party policies allow the state to impose fines or other punishment upon social hosts who furnish alcohol to minors or allow underage drinking parties on their property. In contrast, social host liability policies allow injured parties to file lawsuits against social hosts for damages stemming from the same conduct. Social host liability and dram shop liability (presented elsewhere in this report) are identical policies except that the former involves lawsuits brought against noncommercial alcohol retailers, and the latter involves lawsuits filed against commercial alcohol providers.

Social host liability serves two purposes: (1) it creates disincentives for social hosts to furnish to minors due to the risk of litigation and possible substantial monetary losses, and (2) it allows those injured as a result of illegal furnishing of alcohol to minors to gain compensation from the person(s) responsible for their injuries. Minors causing injuries are the primary and most likely parties to be sued. Typically, social hosts are sued through social host liability claims when minors do not have the resources to fully compensate the injured parties.

Social host liability is established by statute or by a state court through “common law.” Common law refers to the authority of state courts to establish rules by which injured parties can seek redress against persons or entities that negligently or intentionally caused injuries. Courts have the authority to establish these rules only when state legislatures have not enacted their own statutes, in which case the courts must follow legislative dictates (unless found to be unconstitutional). Thus, social host statutes normally take precedence over social host common law court decisions.

Many states require evidence that social hosts furnished alcohol to the underage guest, although others permit liability if social hosts allowed underage guests to drink on the hosts’ property, even if the hosts did not furnish the alcohol. This analysis does not report the states that have adopted this more permissive standard. The analysis includes both statutory and common law social host liability for each state.



A common law liability designation signifies that the state allows lawsuits by injured third parties against social hosts for the negligent service or provision of alcohol to minors in noncommercial settings. Common law liability assumes the following procedural and substantive rules:

1. A negligence standard applies (i.e., defendants did not act as reasonable persons would be expected to act in similar circumstances). Plaintiffs need not show that defendants acted intentionally, willfully, or with actual knowledge of minors' underage status.
2. Damages are not arbitrarily limited. If successful in establishing negligence, plaintiffs receive actual damages and have the possibility of seeking punitive damages.
3. Plaintiffs can pursue claims against defendants without regard to the age of the person who furnished the alcohol and the age of the underage person furnished with the alcohol.
4. Plaintiffs must establish only that minors were furnished with alcohol and that the furnishing contributed to injuries without regard to the minors' intoxicated state at the time of the party.
5. Plaintiffs must establish the key elements of lawsuits by "preponderance of the evidence" rather than a more rigorous standard (such as "beyond a reasonable doubt").

A statutory liability designation indicates that a state has a social host liability statute. Statutory provisions can alter the common law rules listed above, restricting an injured party's ability to make successful claims. This analysis includes three of the most important statutory limitations:

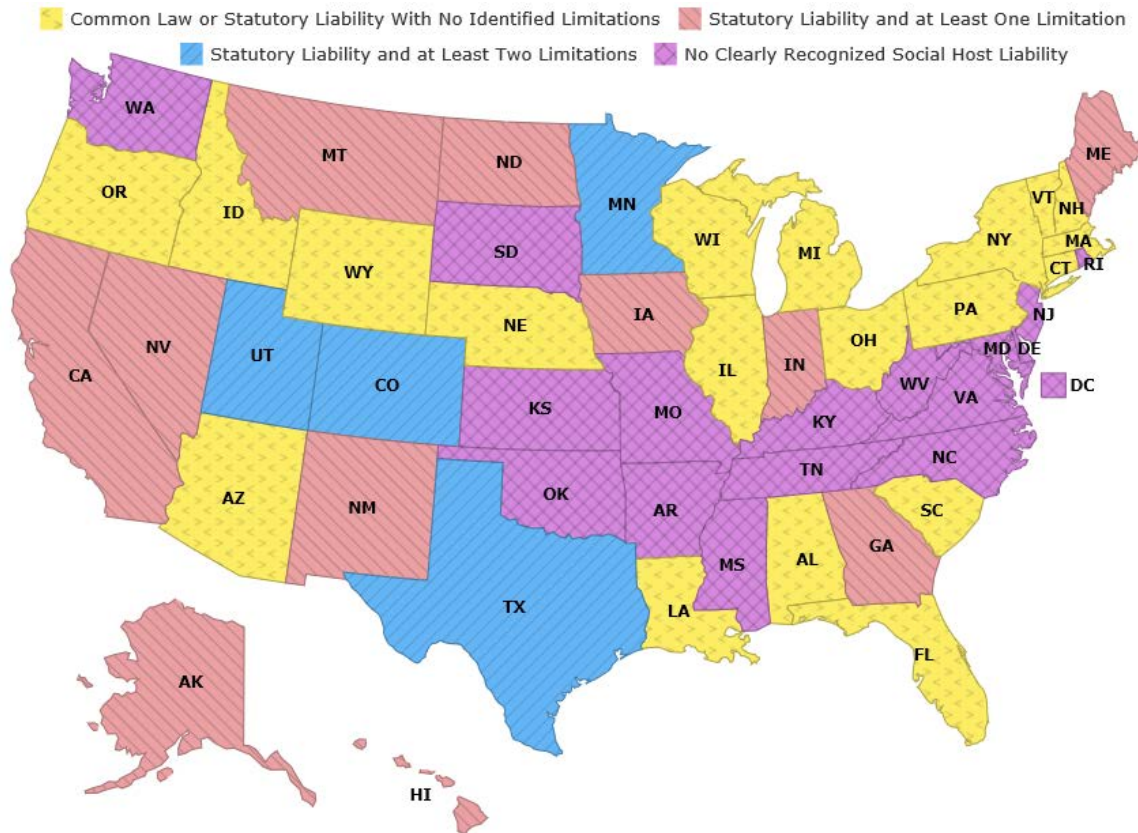
1. Limitations on damages: Statutes may impose statutory caps on the total dollar amount that plaintiffs may recover through social host lawsuits.
2. Limitations on who may be sued: Potential defendants may be limited to persons above a certain age.
3. Limitations on elements or standards of proof: Statutes may require plaintiffs to prove additional facts or meet a more rigorous standard of proof than would normally apply in common law. The statutory provisions may require the plaintiff to:
  - a. Establish that hosts had knowledge that minors were underage or prove that social hosts intentionally or willfully served minors.
  - b. Establish that the minors were intoxicated at the time of service.
  - c. Provide clear and convincing evidence or evidence beyond a reasonable doubt that the allegations are true.

These limitations can limit the circumstances that can give rise to liability or greatly diminish plaintiffs' chances of prevailing in a social host liability lawsuit, thus reducing the likelihood of a lawsuit being filed. Additional restrictions may also apply. For example, many states do not allow "first-party claims," cases brought by the person who was furnished alcohol for his or her own injuries. These additional limitations are not tracked here.

### **Status of Social Host Liability**

As of January 1, 2017, 34 states impose social host liability through statute or common law; 14 states and the District of Columbia do not impose social host liability (see Exhibit I.31). In two states, there is no statutory liability, and common law liability is unclear. Nineteen states have either common law liability or statutory social host liability with no identified limitations. The remaining states with social host liability impose one or more limits on statutory liability, including limits on the damages that may be recovered, limits on who may be sued, and standards of proof of wrongdoing that are stricter than usual negligence standards.

### Exhibit I.31: Common Law/Statutory Social Host Liability as of January 1, 2017



#### Trends in Social Host Liability for Furnishing Alcohol to a Minor

In the years between 2009 and 2017, the number of states that permit social host liability increased by two.

#### Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract with The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## Hosting Underage Drinking Parties

### Policy Description

Host party laws establish state-imposed liability against individuals (social hosts) responsible for underage drinking events on property they own, lease, or otherwise control. The primary purpose of these laws is to deter underage drinking parties by raising the legal risk for individuals who allow underage drinking events on property they own, lease, or otherwise control.

Underage drinking parties pose significant public health risks. They are high-risk settings for binge drinking and associated alcohol problems, including impaired driving. Young drinkers are often introduced to heavy drinking behaviors at these events. Law enforcement officials report that, in many cases, underage drinking parties occur on private property, but the adult responsible for the property is not present or cannot be shown to have furnished the alcohol. Host party laws address this issue by providing a legal basis for holding persons responsible for parties on their property whether or not they provided alcohol to minors.

Host party laws often are closely linked to laws prohibiting the furnishing of alcohol to minors (analyzed elsewhere in this report), although laws that prohibit hosting underage drinking parties may apply without regard to who furnishes the alcohol. Hosts who allow underage drinking on their property and also supply the alcohol consumed or possessed by the minors may be in violation of two distinct laws: (1) furnishing alcohol to a minor, and (2) allowing underage drinking to occur on property they control.

Two general types of liability may apply to those who host underage drinking parties. The first, analyzed here, concerns state-imposed liability. State-imposed liability involves a statutory prohibition that is enforced by the state, generally through criminal proceedings that can lead to sanctions such as fines or imprisonment. The second, social host liability (analyzed elsewhere in this report), involves an action by a private party seeking monetary damages for injuries that result from permitting underage drinking on the host's premises.

Although related, these two forms of liability are distinct. For example, an individual may allow a minor to drink alcohol, after which the minor causes a motor vehicle crash that injures an innocent third party. In this situation, the social host may be prosecuted by the state under a criminal statute and face a fine or imprisonment for the criminal violation. In a state that provides for social host civil liability, the injured third party could also sue the host for monetary damages associated with the motor vehicle crash.

State host party laws differ across multiple dimensions, including the following:

1. They may limit their application specifically to underage drinking parties (e.g., by requiring a certain number of minors to be present for the law to take effect) or may prohibit hosts from allowing underage drinking on their property generally, without reference to hosting a party.
2. Underage drinking on any of the host's properties may be included, or the laws may restrict their application to residences, out-buildings, or outdoor areas.
3. The laws may apply only when hosts make overt acts to encourage the party, or they may require only that hosts knew about the party or were negligent in not realizing that parties were occurring (i.e., should have known based on the facts available).

4. A defense may be available for hosts who take specific preventive steps to end parties (e.g., contacting police) once they become aware that parties are occurring.
5. The laws may require differing types of behavior on the part of the minors at the party (possession, consumption, intent to possess or consume) before a violation occurs.
6. Jurisdictions have varying exceptions in their statutes for family members or others, or for other uses or settings involving the handling of alcoholic beverages.

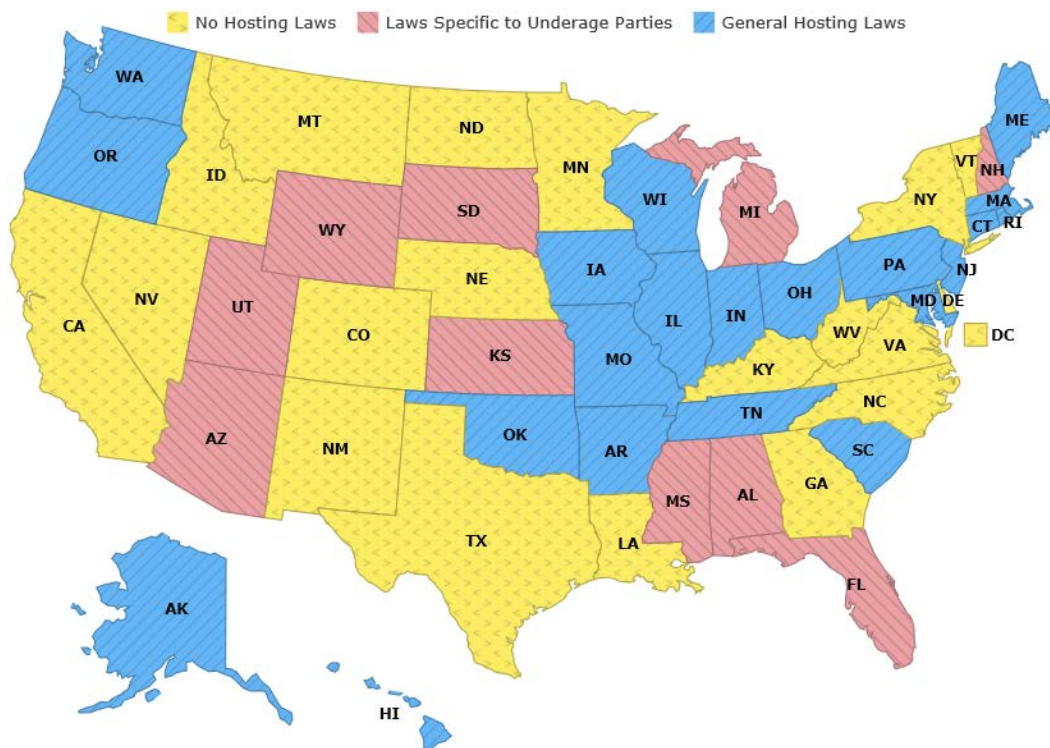
### Status of Host Party Laws

As of January 1, 2017, 21 jurisdictions have general host party laws, 10 have specific host party laws, and 20 have no laws of either sort (see Exhibit I.32). Of the jurisdictions with host party laws, most apply to both residential and outdoor property and only four apply to residential property but not outdoor property. Of the 31 jurisdictions with host party laws, 23 require that the host knew about the party to trigger liability; in the remaining states, the standard varies. Finally, the majority of jurisdictions with host party laws have family exceptions.

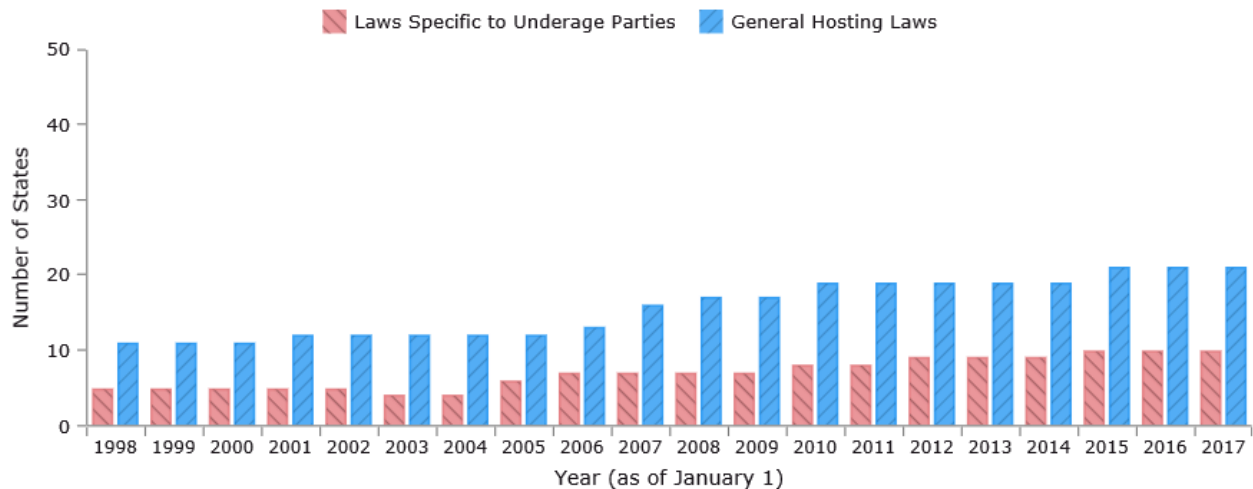
### Trends in Host Party Law Policies

Between 1998 and 2017, the number of jurisdictions that enacted specific host party laws rose from 5 to 10, and the number that enacted general host party laws rose from 11 to 21. In 1998, there were 16 host party laws of both types; in 2017 there are 31 (see Exhibit I.33).

**Exhibit I.32: Prohibitions against Hosting Underage Drinking Parties as of January 1, 2017**



### Exhibit I.33: Number of States with Prohibitions Against Hosting Underage Drinking Parties, January 1, 1998, through January 1, 2017



#### Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Prohibitions against Hosting Underage Drinking Parties" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Retailer Interstate Shipments of Alcohol

### Policy Description

This policy addresses state laws that prohibit or permit retailers to ship alcohol directly to consumers located across state lines, usually by ordering alcohol over the Internet. It is related to, but distinct from, both the direct shipment policy, which addresses alcohol shipments to consumers by alcohol producers, and the home delivery policy, which involves retailer deliveries to consumers within the same state.

Retailer interstate shipments may be an important source of alcohol for underage drinkers. In a North Carolina study (Williams & Ribisl, 2012), a group of eight 18- to 20-year-old research assistants placed 100 orders for alcoholic beverages using Internet sites hosted by out-of-state retailers. Forty-five percent of the orders were successfully completed, while 39 percent were rejected as a result of age verification. The remaining 16 percent of orders failed for reasons believed to be unrelated to age verification (e.g., technical and communication problems with vendors). Most vendors (59 percent) used weak, if any, age verification at the point of order, and, of the 45 successful orders, 23 (51 percent) had no age verification at all. Age verification at delivery was also inconsistently applied.

The North Carolina study reported that there are more than 5,000 Internet alcohol retailers, and that the retailers make conflicting claims regarding the legality of shipping alcohol across state lines to consumers. There were also conflicting claims regarding the role of common carriers. The North Carolina study reported that all deliveries were made by such companies, and many Internet alcohol retailers list well-known common carriers on their websites. Yet carriers contacted by the study researchers stated they do not deliver packages of alcohol except with direct shipping permits. This suggests confusion regarding state laws addressing interstate retail shipments. North Carolina prohibits such shipments, which means that at least 43 percent of the retailers in the study appeared to have violated the state law.

The NRC/IOM report on reducing underage drinking recognized the potential for young people to obtain alcohol over the Internet. It recommended that states either ban such sales or require alcohol labeling on packages and signature verification at the point of delivery (NRC & IOM, 2004).

Several potential barriers to implementing and enforcing bans on retailer interstate alcohol sales include:

1. States will have difficulty securing jurisdiction over out-of-state alcohol retailers.
2. States may have little incentive to use limited enforcement resources to crack down on in-state alcohol retailers that are shipping out of state because they are not violating state law, taxes are being collected, and any problems occur out of state.
3. Enforcing bans on retailer interstate shipments may prompt online retailers to locate outside the country (many already are foreign based), creating additional jurisdictional and enforcement problems.

### Types of Restrictions on Interstate Internet Sales

The restrictions addressed in this policy vary by beverage type (beer, wine, distilled spirits). Interstate shipments may be prohibited for one beverage type, more than one beverage type,

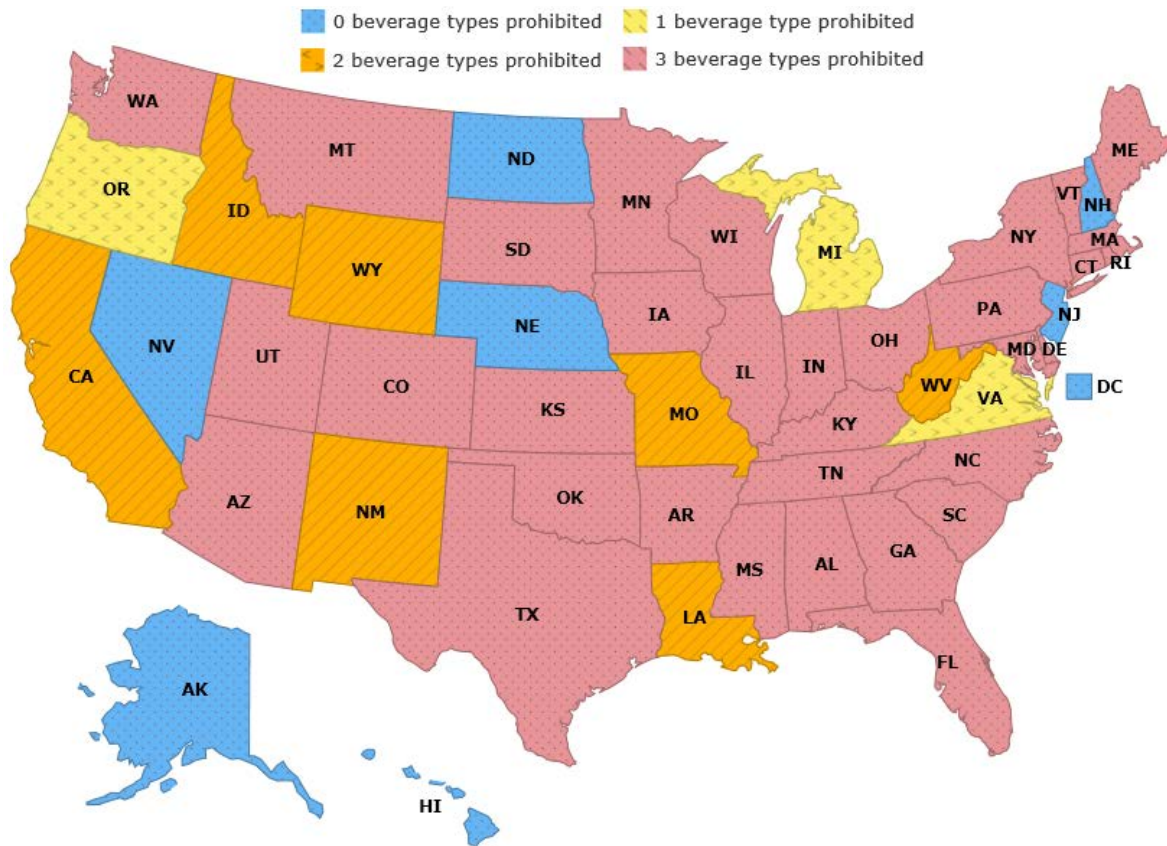


or all three beverage types. Some states place restrictions on interstate Internet sales, including requiring a direct shipping permit and limiting the amount of beverage that may be shipped.

**Current Status of Interstate Internet Sales**

Thirty-three states (see Exhibit I.34) prohibit retail interstate sales of all three beverage types, seven prohibit sales of two beverage types, and three prohibit sales of one beverage type. Spirits are the most commonly prohibited beverage (43 states), followed by beer (40 states) and wine (33 states). In eight states, retailer interstate sales laws were deemed uncodable for at least one beverage type (beer, wine, liquor). For purposes of this summary, these states are treated as *not* expressly prohibiting interstate Internet sales for the uncodable beverage types.

**Exhibit I.34: Number of Beverage Types for which Interstate Internet Sales are Expressly Prohibited as of January 1, 2017**



## Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## Direct Sales/Shipments from Producers to Consumers

### Policy Description

State proscriptions against direct sales and shipments of alcohol from producers to consumers date back to the repeal of Prohibition. The initial reason for the proscriptions was to ensure that the pre-Prohibition-era “tied house system” (under which producers owned or controlled retail outlets directly or both) did not continue after repeal. Opponents of the tied house system argued that producers who controlled retail outlets permitted unsafe retail practices and failed to respond to community concerns. The alternative that emerged was a three-tier production and distribution system with separate production, wholesaling, and retail elements. Thus, producers must distribute products through wholesalers rather than sell directly to retailers or consumers, wholesalers must purchase from producers, and consumers must purchase from retailers.

Modern marketing practices, particularly Internet sales that link producers directly to consumers, have led many states to create laws with exceptions to general mandates that alcohol producers distribute their products only through wholesalers. Some states permit producers to ship alcohol to consumers using a delivery service (usually a common carrier). In some cases, these exceptions are responses to legal challenges by producers or retailers arguing that state law unfairly discriminates between in-state and out-of-state producers. The U.S. Supreme Court has held that state laws permitting in-state producers to ship directly to consumers while barring out-of-state producers from doing so violate the U.S. Constitution’s Interstate Commerce Clause, and that this discrimination is neither authorized nor permitted by the 21st Amendment.<sup>7</sup>

One central concern emerging from this controversy is the possibility that direct sales/shipments (either through Internet sales or sales made by telephone or other remote communication) will increase alcohol availability to underage persons.

Young people may attempt to purchase alcohol through direct sales instead of face-to-face sales at retail outlets because they perceive that detection of their underage status is less likely. These concerns were validated by a study that found that Internet alcohol vendors use weak, if any, age verification, thereby allowing minors to successfully purchase alcohol online (Williams & Ribisl, 2012). In response to these concerns, several jurisdictions that permit direct sales/shipments have included provisions to deter youth access. These may include requirements that:

1. Consumers have face-to-face transactions at producers’ places of business (and show valid age identification) before any future shipments to consumers can be made.<sup>8</sup>
2. Producers/shippers and deliverers verify recipient age, usually by checking recipients’ identification.
3. Producers/shippers and deliverers obtain permits or licenses or be approved by the state.
4. Producers/shippers and deliverers maintain records that must either be reported to state officials or be open for inspection to verify recipients of shipments.
5. Direct shipment package labels include statements that the package contains alcohol and that the recipient must be at least 21 years old.

<sup>7</sup> See, e.g., *Granholm v. Heald*, 544 U.S. 460, 125 S.Ct. 1885 (2005).

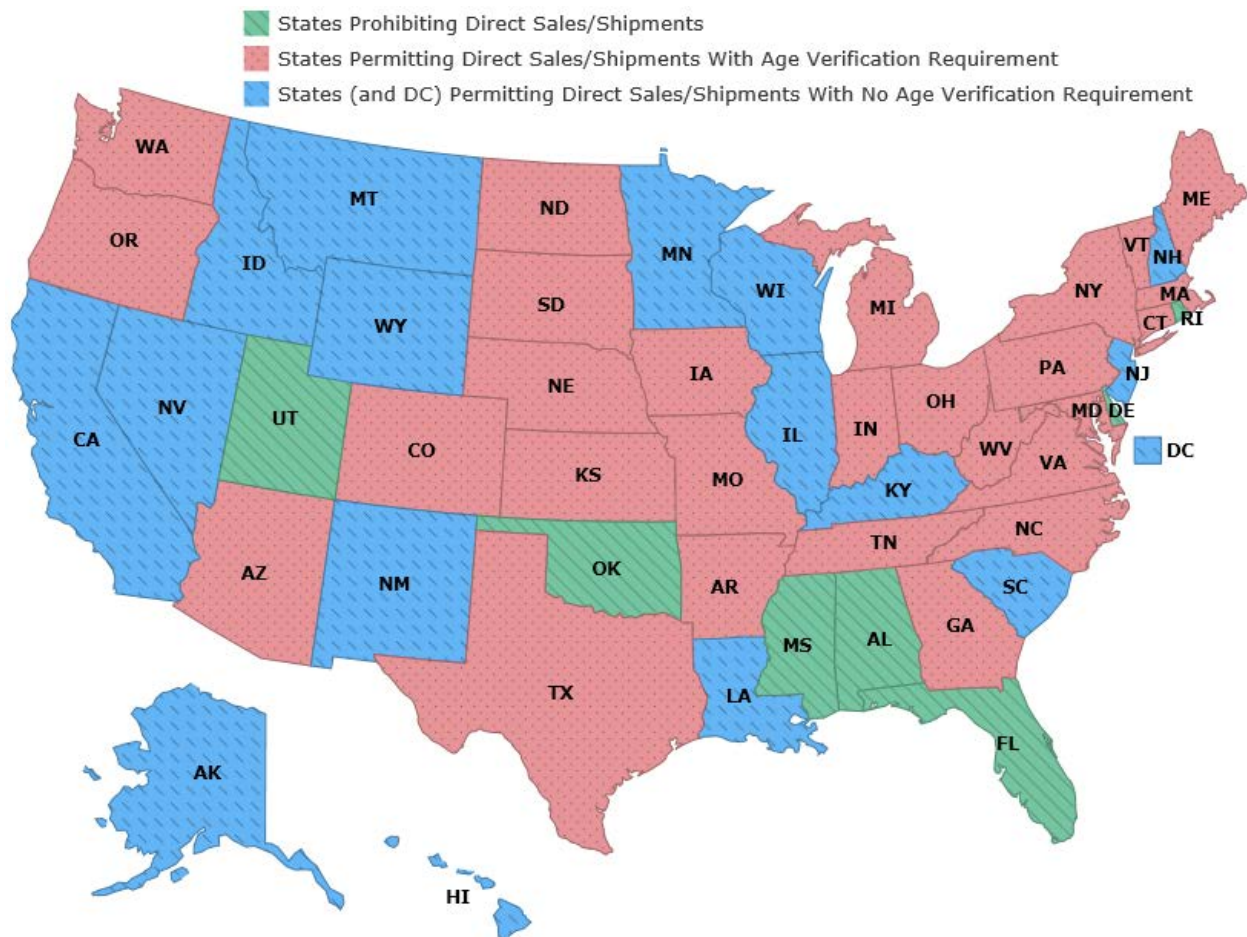
<sup>8</sup> Laws that require face-to-face transactions for all sales prior to delivery are treated as prohibitions on direct sales/shipments.

State laws also vary on the types of alcoholic beverages (beer, wine, distilled spirits) that producers may sell directly and ship to consumers. These and other restrictions may apply to all direct shipments. Only those requirements related to preventing underage sales are discussed here.<sup>9</sup>

**Status of Direct Sales/Shipment Policies**

As of January 1, 2017, 44 states permit direct sales/shipments from producers to consumers, and 7 prohibit such transactions (see Exhibit I.35). Of the 44 states permitting direct sales or shipments, 27 require some form of age verification, whether by shippers, deliverers, or both. Sixteen states and the District of Columbia do not require any age verification. One state (Arkansas) requires face-to-face transactions at producers’ places of business and verification of valid age identification before shipments to the consumer can be made.

**Exhibit I.35: Direct Sales/Shipment Policies and Age Verification Requirements as of January 1, 2017**



<sup>9</sup> These include caps on the amount that can be shipped; laws that permit only small producers to sell directly to consumers; reporting and taxation provisions unrelated to identifying potential underage recipients; and brand registration requirements. In some cases, exceptions are so limited that a state is coded as not permitting direct sales (e.g., shipments are allowed only by boutique historical distilled spirits producers).

## Trends in Direct Sales/Shipments Policies

Between January 1, 2009, and January 1, 2017, 13 states amended their existing direct shipping policies. Seven of these amendments added restrictions on direct shipment, such as requiring labels, collecting purchaser names, or adding age verification requirements. During the same time period, eight other states (Arkansas, Kansas, Maine, Maryland, New Jersey, Pennsylvania, South Dakota, and Tennessee) adopted permit systems allowing direct shipment of wine from producers to purchasers.

## Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## **Keg Registration**

### **Policy Description**

Keg registration laws (also called keg tagging laws) require wholesalers or retailers to attach tags, stickers, or engravings with an identification number to kegs exceeding a specified capacity. These laws discourage purchasers from serving underage persons from the keg by allowing law enforcement officers to trace the keg to the purchaser even if he or she is not present at the location where the keg is consumed.

At purchase, retailers are required to record identifying information about the purchaser (e.g., name, address, telephone number, driver's license). In some states, keg laws specifically prohibit destroying or altering the ID tags and provide penalties for doing so. Other states make it a crime to possess unregistered or unlabeled kegs.

Refundable deposits may also be collected for the kegs themselves, the tapper mechanisms used to serve the beer, or both. Deposits are refunded when the kegs and tappers are returned with identification numbers intact. These deposits create an incentive for the purchaser to keep track of the whereabouts of the keg, because a financial penalty is imposed if the keg is not returned.

Some jurisdictions collect information (e.g., location where the keg is to be consumed, tag number of the vehicle transporting the keg) to aid law enforcement efforts, further raising the chances that illegal furnishing to minors will be detected. Some jurisdictions also require retailers to provide warning information at the time of purchase about laws prohibiting service to minors and other laws related to the purchase or possession of the keg.

Disposable kegs complicate keg registration laws. Some of these containers meet the capacity definition for a keg but cannot be easily tagged or traced, as they are meant to be disposed of when empty. Most states do not differentiate disposable from nondisposable kegs, although some have modified keg registration provisions to accommodate this container type.

### **Status of Keg Registration Policies**

#### ***Keg Registration Laws***

As of January 1, 2017, the District of Columbia and 30 states require keg registration, and 19 states do not require keg registration. Minimum keg sizes subject to keg registration requirements range from 2 gallons to 7.75 gallons with the exception of South Dakota, where the requirements are 8 or 16 gallons. Utah alone prohibits keg sales altogether, making a keg registration law irrelevant.

#### ***Prohibited Acts***

Separately from requiring retailers to register kegs, some states prohibit anyone from possessing unregistered kegs, or destroying keg labels, or both. Twenty-six states and the District of Columbia prohibit neither act.

#### ***Purchaser Information Collected***

All 31 jurisdictions with keg registration laws require retailers to collect some form of purchaser information, such as purchaser's name and address, a driver's license, or other government-

issued identification. Six jurisdictions also require purchasers to provide the address where the keg will be consumed.

### **Warning Information to Purchasers**

Of the 31 jurisdictions with keg registration laws, 23 states and the District of Columbia require that some kind of warning information be presented to purchasers about the violation of any laws related to keg registration (see Exhibit I.36). Warnings are either “active” (requiring an action on the part of the purchaser, such as signing a document), or “passive” (requiring no action on the part of the purchaser). Seven states do not require that any warning information be given to purchasers.

### **Trends in Keg Registration Policies**

The number of states enacting keg registration laws rose steadily between 2003 and 2008, with an increase from 20 to 31 jurisdictions, and has remained the same since then (see Exhibit I.37).

### **Data Sources and Citations**

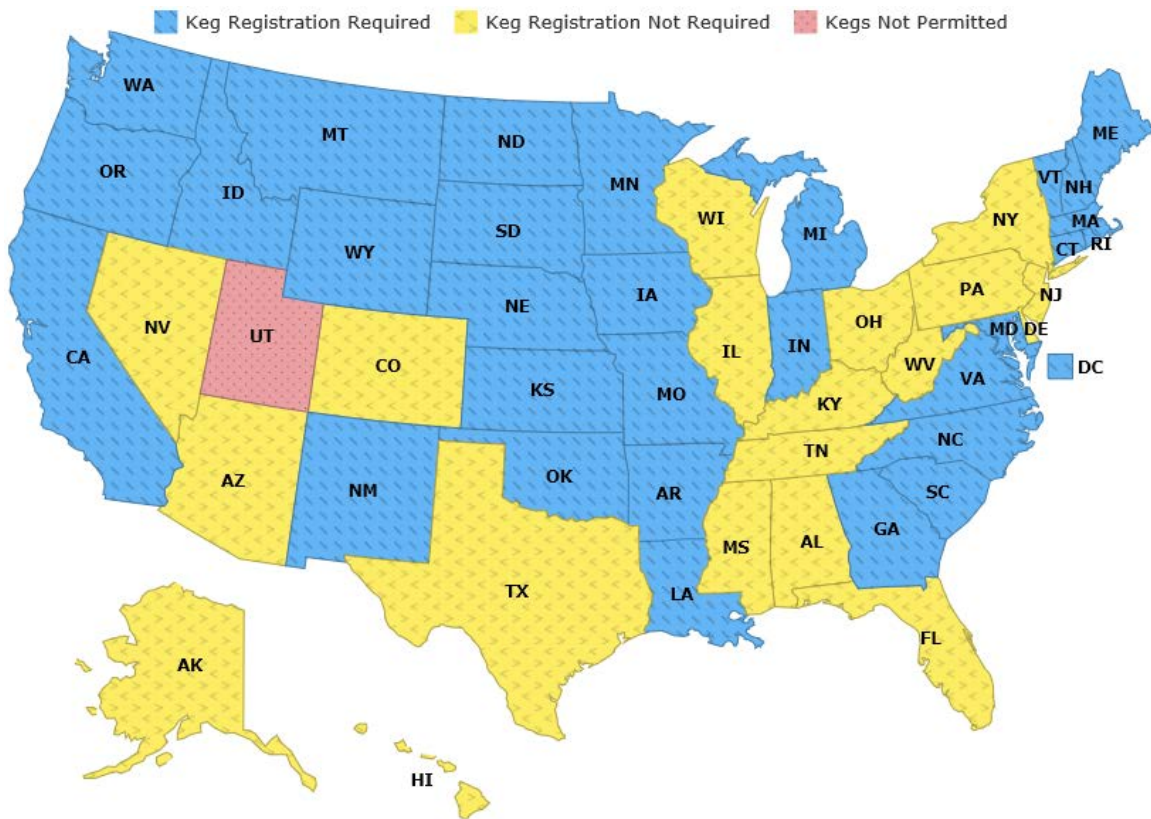
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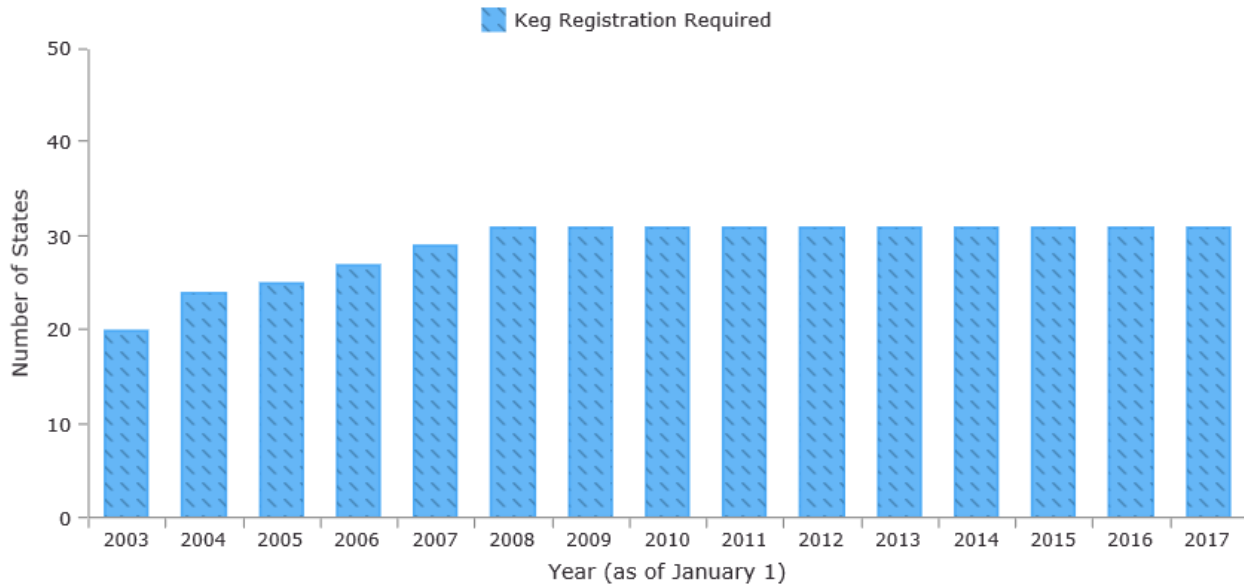
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**Exhibit I.36: Keg Registration Laws as of January 1, 2017**





**Exhibit I.37: Number of States with Keg Registration Laws, January 1, 2003, through January 1, 2017**



## Home Delivery

### Policy Description

Home delivery restrictions prohibit or limit the ability of alcohol retailers to deliver alcoholic beverages to customers who are not present at their retail outlet. The University of Minnesota Alcohol Epidemiology Program notes that home delivery of alcohol may increase alcohol availability to youth by increasing opportunities for underage persons to subvert minimum age purchase requirements. Ordering by phone, fax, or email may facilitate deception. Delivery persons may have less incentive to check purchasers' age identification when they are away from the licensed establishment and cannot be watched by a surveillance camera, the liquor store's management, or other customers.

Research on home delivery of alcohol is limited. One study examined the use of home delivery by adult men. The authors report that regular drinkers without a history of alcohol problems were significantly less likely to have had alcohol delivered than problem drinkers. Another study found similar results for underage drinkers. Ten percent of 12th-graders and 7 percent of 18- to 20-year-olds in 15 Midwestern communities reported they obtained alcohol through delivery services in the last year. Use of delivery services was more prevalent among young men and among more frequent, heavier drinkers.

A state home delivery law may:

1. Specifically prohibit or permit the delivery of beer, wine, or spirits to residential addresses, hotel rooms, conference centers, and so on.
2. Permit home delivery, but with restrictions, including:
  1. Limits on the quantity that may be delivered.
  2. Limits on the time of day or days of the week when deliveries may occur.
  3. A requirement that the retail merchant obtain a special license or permit.

In some states that allow home delivery, local ordinances may restrict or ban home delivery in specific substate jurisdictions.

### Status of Home Delivery Policies

Exhibit I.38 shows the number of states that permit, prohibit, or have no law regarding home delivery of beer, wine, and spirits. As the exhibit shows, 20 states permit home delivery of all three beverages, 8 prohibit delivery of all three, and 15 have no law for any beverage. Eight states have differing laws for each of the three beverages. Of the states that permit home delivery, some place restrictions on retailers, including

1. Requiring a state permit
2. Restricting the volume that can be delivered
3. Requiring clearly marked delivery vehicles

Alaska is the only state that requires that orders must be in writing and that written information on fetal alcohol syndrome accompany the delivered product. Washington requires a special license for Internet orders. Exhibits I.39 through I.41 summarize the status of home delivery for beer, wine, and spirits as of January 1, 2017.

## Trends in Home Delivery Policies

Between 2010 and 2017, three states (Louisiana, Washington, and Tennessee) changed their home delivery policies. Louisiana permitted wine retailers to deliver to consumers in 2011. Washington permitted spirit retailers to deliver to consumers in 2012. In 2014, Tennessee permitted retailers to deliver beer, wine, and spirits.

## Data Sources and Citations

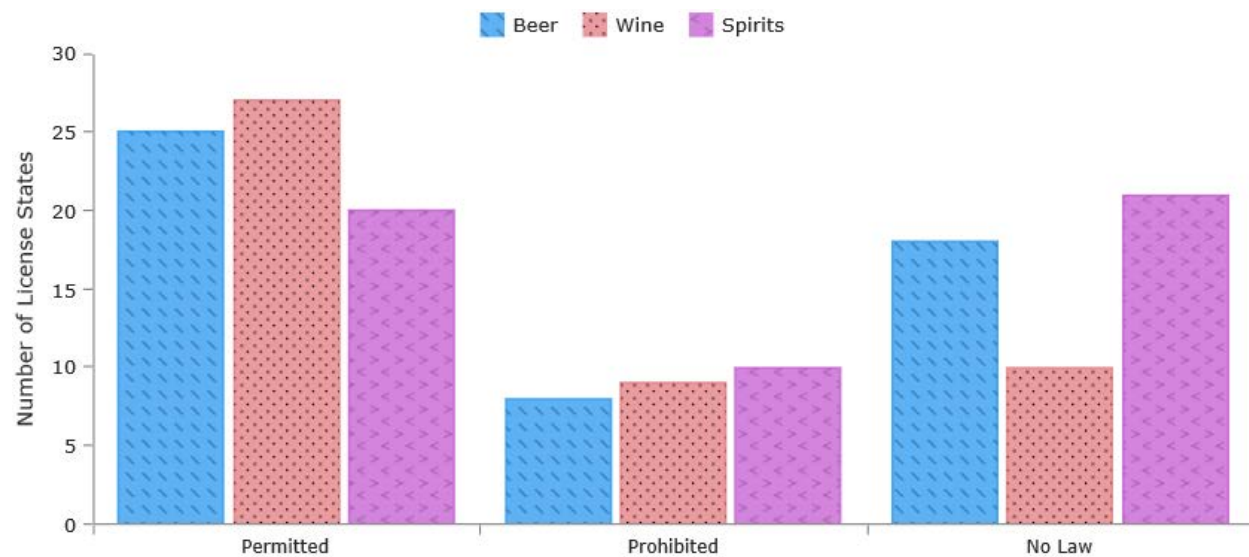
Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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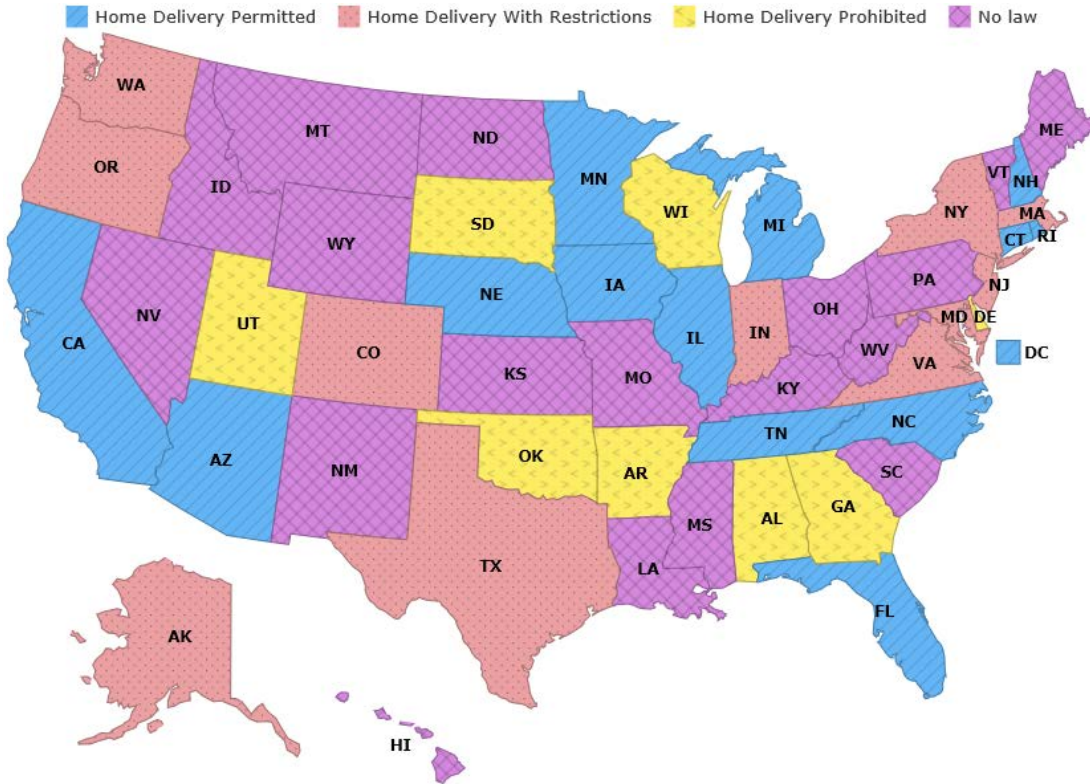
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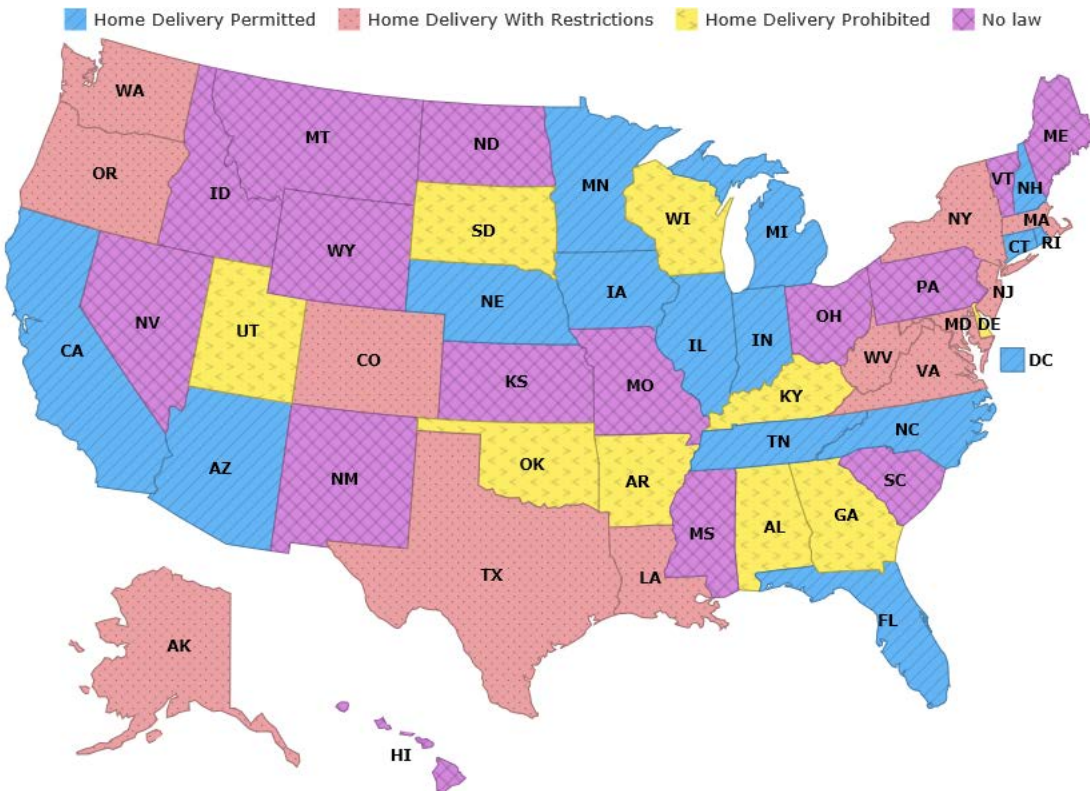
**Exhibit I.38: Home Delivery of Beer, Wine, and Spirits**



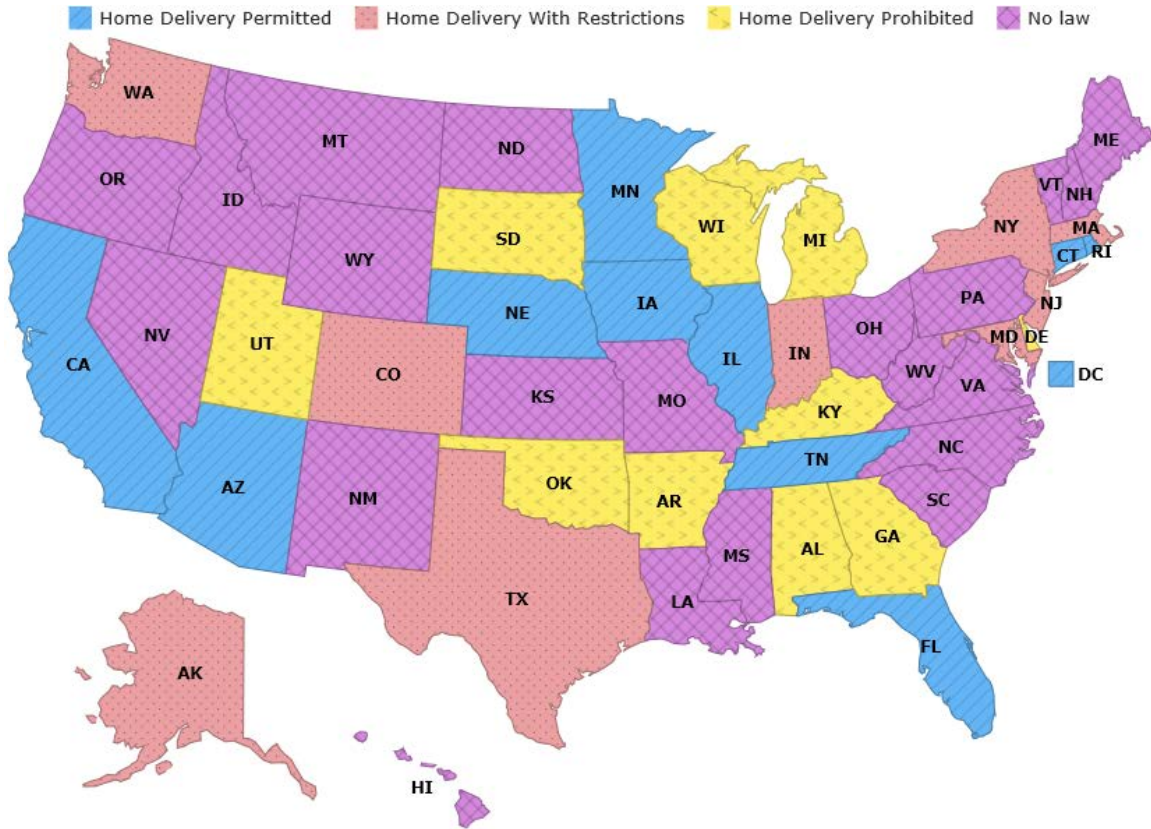
### Exhibit I.39: Home Delivery of Beer



### Exhibit I.40: Home Delivery of Wine



### Exhibit I.41: Home Delivery of Spirits



## High-Proof Grain Alcoholic Beverages

### Policy Description

This policy addresses state laws that prohibit or restrict the retail availability of high-proof grain alcoholic beverages as a strategy for reducing underage drinking, particularly underage binge drinking.

High-proof grain alcoholic beverages such as Everclear or Gem Clear represent a type of “neutral spirits” that is odorless and colorless and contains a high percentage of alcohol. The Federal Alcohol and Tobacco Tax and Trade Bureau (TTB) defines “neutral spirits or alcohol” as “spirits distilled from any material at or above 95 percent alcohol by volume (190 proof), and if bottled, bottled at not less than 40 percent alcohol by volume (80 proof)” (Alcohol and Tobacco Tax and Trade Bureau, 2007).<sup>10</sup> Grain spirits are neutral spirits distilled from a fermented mash of grain and stored in oak containers.

High-proof grain alcoholic beverages pose particular risks for young people. They have little or no taste, odor, or color and are often added to cocktails, soft drinks, and fruit punch. This can result in an easy-to-consume concoction with very high alcohol content that is difficult to detect, particularly for inexperienced drinkers, and can lead to binge drinking.

A “serving” of alcohol contains 0.6 ounces of ethanol, per NIAAA. This is the amount of ethanol contained in 1.5 ounces of traditional (40 percent ABV) distilled spirits, 5 ounces of 12 percent ABV wine, and 12 ounces of 5 percent ABV beer. Grain alcohol, by contrast, contains approximately twice as much ethanol as traditional distilled spirits. Thus, an equivalent “serving” of grain alcohol would be 0.6 ounces of 95 percent ABV/190 proof or 0.8 ounces of 75.5 percent ABV/151 proof grain alcohol, respectively. This means there are 42 servings of 95 percent ABV/190 proof or 32 servings of 75.5 percent ABV grain alcohol in a 750mL bottle, compared with only 17 servings in a bottle of other types of distilled spirits (such as vodka) of the same size. Research suggests that young people often “overpour” their drinks, making a strong drink even stronger (White et al., 2005). This practice can therefore be particularly hazardous when high-proof grain alcoholic beverages are involved.

More than two thirds of youth binge drink (defined as five or more drinks in a sitting for men and four or more drinks in a sitting for women), and more than one fifth of these youth do so frequently (NRC & IOM, 2004). Binge drinking “is associated with drunk driving, risky sexual behavior, physical and sexual assaults, injuries, and suicides” (Naimi, Siegel, DeJong, O’Doherty, & Jernigan, 2015).

Research has found that college students often consume grain alcohol when binge drinking. The Maryland Collaborative to Reduce College Drinking and Related Problems (“the Collaborative”) created and administered the Maryland College Alcohol Survey to 4,209 students from nine schools to measure levels of alcohol use and excessive drinking (Maryland Collaborative to Reduce College Drinking and Related Problems, 2014). It found that among students who had consumed alcohol in the past month, 70 percent reported binge drinking during that time period,

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<sup>10</sup> Proof is a method of measuring the alcohol content of spirits calculated by multiplying the percent of alcohol by volume (ABV) by two.

with 11.6 percent reporting they consumed grain alcohol. Among high-risk drinkers (those who binge drank 1 to 4 days during the past month), 10.6 percent reported consuming grain alcohol over the last month. Among very high-risk drinkers (those who binge drank 5 or more days during the past month), 22 percent reported consuming grain alcohol over the last month.

Two studies looked at rates of high-proof grain alcoholic beverage consumption among all youth. According to an Internet panel of 1,032 youth ages 13 to 20, 5.8 percent of all youth reported consuming high-alcohol-content grain alcoholic beverages in the past 30 days (Siegel et al., 2014), and 2.4 percent of youth reported binge drinking such beverages in the past 30 days (Naimi et al., 2015).

Of youth who drank high-alcohol-content grain alcoholic beverages, 35.1 percent reported binge drinking. Naimi and colleagues also computed a market share ratio, the “proportion of binge reports accounted for by a particular alcohol type ... or category ... divided by its overall market share (i.e., percent of all drinks consumed) among the entire youth sample.” A number greater than 1.0 means “for a particular alcohol type or category, the number of binge drinking reports is disproportionately large relative to its market share.”

The market share ratio for high-proof grain alcoholic beverages was the fifth highest (out of 19 alcohol types or categories), at 1.59. Given the characteristics of this product and given that it is frequently mixed with punch or similar beverages, however, some youth may have consumed it unknowingly, and thus may not have reported consuming it in the studies, so the above statistics may underreport its consumption.

In many states, youth can easily obtain these beverages at low prices. The cost per ounce of ethanol for grain alcohol ranges from 52¢ to 82¢. This is substantially lower than beer (\$1.93 per ounce of ethanol), vodka (\$1.85 per ounce of ethanol), or flavored alcoholic beverages (\$2.14 per ounce of ethanol; DiLoreto et al., 2012). At this strength and price, grain alcohol provides one of the cheapest means to obtain a standard drink of alcohol and to engage in binge drinking.

### **Types of Restrictions on Sale of High-Proof Grain Alcoholic Beverages**

Many states prohibit or restrict retail sale of high-proof grain alcoholic beverages. State statutes or regulations may restrict the type of such beverages that can be sold in the state. Control states, where the state government maintains direct control over the distribution and sale of alcoholic beverages at the wholesale and/or retail levels, may also regulate high-proof grain alcoholic beverages through internal policies that are not reflected in statute or regulation (i.e., by determining administratively that the beverages will not be made available at state-run wholesale and/or retail outlets).

States that regulate grain alcohol through internal policy, rather than by statute or regulation, are reported as restricting sales only if their internal policies are published in writing. Counties or municipalities may also regulate the sale of high-proof grain alcoholic beverages by local ordinance. Such restrictions are not included in this report.





## Data Sources and Citations

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For more information, including definitions of the variables for this policy, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

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## Policies Affecting Alcohol Pricing

### Alcohol Taxes

#### Policy Description

There is ample evidence that the “economic availability” of alcoholic beverages (i.e., retail price) affects underage drinking and a wide variety of related consequences. The *Surgeon General’s Call to Action* includes economic availability as a strategy in the context of increasing the cost of underage drinking (HHS, 2007). Taxes are a major way that alcohol prices are manipulated by policymakers.

The effects of price on reducing underage drinking, college drinking, and binge drinking (including drinking among youth who show signs of alcohol use disorders) are considerable. There are also significant effects on youth traffic crashes, violence on college campuses, and crime among people under 21.

Although alcohol taxes are an imperfect index of retail prices, tax rates are relatively easy to measure and provide a useful proxy for economic availability. Based on this and other research, the 2004 NRC/IOM report, *Reducing Underage Drinking: A Collective Responsibility* (NRC & IOM, 2004) made the following recommendation: “[S]tate legislatures should raise excise taxes to reduce underage consumption and to raise additional revenues for this purpose.”

This policy addresses beer, wine, and distilled spirits taxes. Although some states have separate tax rates for other alcoholic products (e.g., sparkling wine and flavored alcohol beverages), these account for a small market share and are not addressed.

#### Status of Alcohol Taxation

As of January 1, 2017, all license states have a specific excise tax for beer, wine, and spirits. The federal government also levies a specific excise tax of \$0.58/gallon for beer, \$1.07/gallon for wine, and \$13.50/gallon for spirits.<sup>11</sup>

Like the federal-specific excise tax, state-specific excise taxes are generally highest for spirits and lowest for beer, roughly tracking the alcohol content of these beverages. Beer-specific excise taxes range from \$0.02 to \$1.29/gallon, wine-specific excise taxes range from \$0.20 to \$2.50/gallon, and spirits-specific excise taxes range from \$1.50 to \$14.25/gallon. The states with the highest excise tax for one beverage may not be the states with the highest excise taxes for other beverages. States may control for one, two, or three categories (beer, wine, and spirits).

Exhibits I.43 through I.45 show the levels of excise taxes for beer, wine, and spirits across the 50 states and the District of Columbia. Exhibit I.46 shows the ad valorem excise tax or sales tax

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<sup>11</sup> “Spirits are taxed at the rate of \$13.50 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon. A proof gallon is one liquid gallon of spirits that is 50 percent alcohol at 60°F. Distilled Spirits bottled at 80 proof (40 percent alcohol) would be 0.8 proof gallons per gallon of liquid and taxed at a rate of \$10.80 per gallon. Distilled Spirits bottled at 30 proof (15 percent alcohol) would be 0.3 proof gallons per gallon of liquid and taxed at a rate of \$4.05 per gallon.”

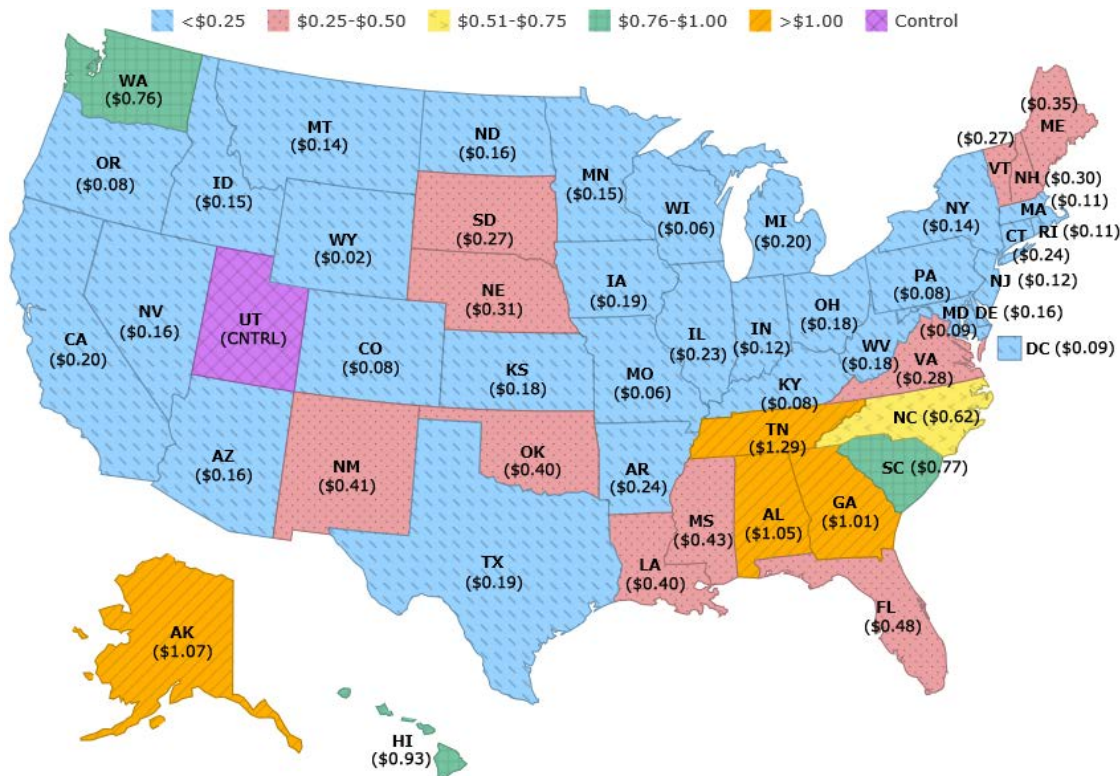
adjusted ad valorem excise tax rates<sup>12</sup> for license states that have ad valorem excise taxes. These may be levied at on- or off-sale outlets and may be for beer, wine, and spirits.

Beer ad valorem excise tax rates range from 1 to 14.95 percent for on- and off-premises sales. Wine rates range from 1.5 to 15 percent for on- and off-premises sales. Distilled spirit rates range from 1.5 to 37.50 percent for on- and off-premises sales. As shown in Exhibit I.47, trade-off between retail ad valorem excise tax and sales tax is not uncommon.

### Trends in Alcohol Taxes

Exhibit I.48 shows the number of tax increases or decreases in beer, wine, or spirits excise taxes since 2003. These changes do not reflect increases or decreases in sales tax adjusted ad valorem excise tax rates that were caused only by a state’s change to its general sales tax.<sup>13</sup> Changes also do not include the initial tax changes that occurred in 2011 when Washington changed from a control state to a license state. During this period, there have been 40 tax rate increases and 9 decreases across all jurisdictions. A recent study noted that, measured in real-dollar terms to account for inflation, state alcohol excise taxes have declined about 30% since 1991, and now average about 5 cents per drink (Naimi, Blanchette, Xuan & Chaloupka, 2018).

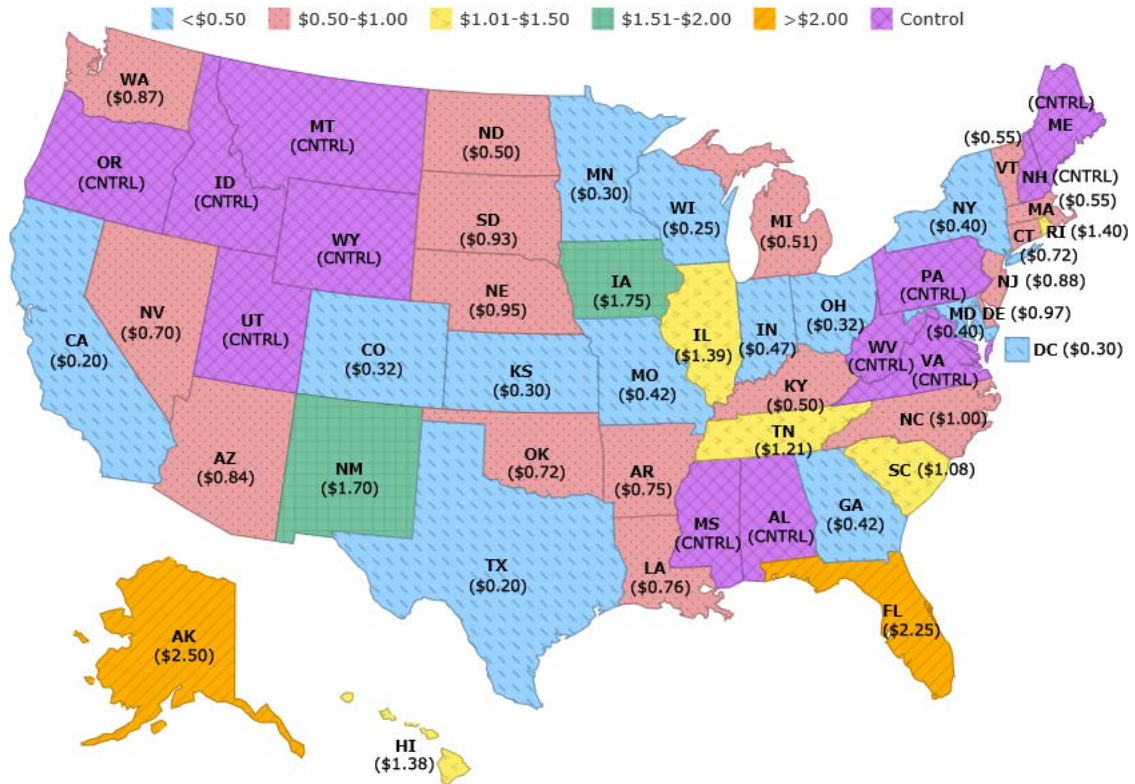
**Exhibit I.43: Specific Excise Tax per Gallon on Beer as of January 1, 2017**



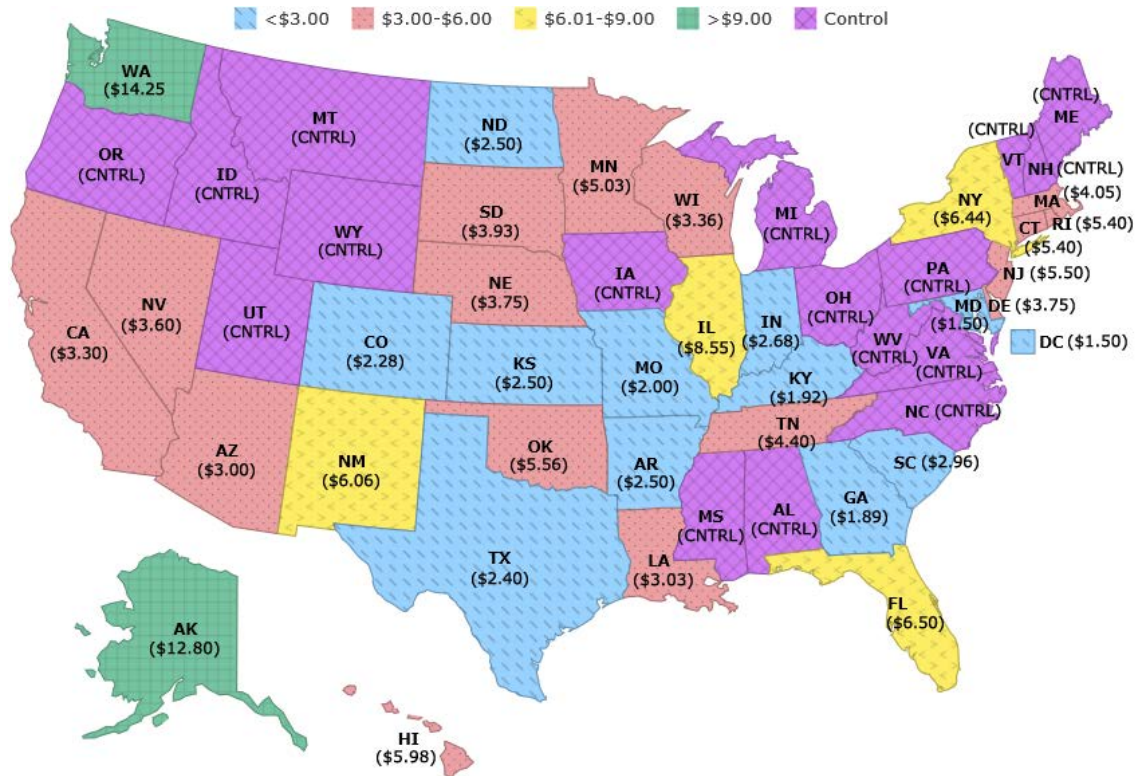
<sup>12</sup> The retail ad valorem excise tax minus the sales tax. Applicable only to states in which sales tax does not apply to alcoholic beverages in order to reflect the actual taxation rate.

<sup>13</sup> The retail ad valorem excise tax minus the sales tax. Applicable only to states in which sales tax does not apply to alcoholic beverages in order to reflect the actual taxation rate.

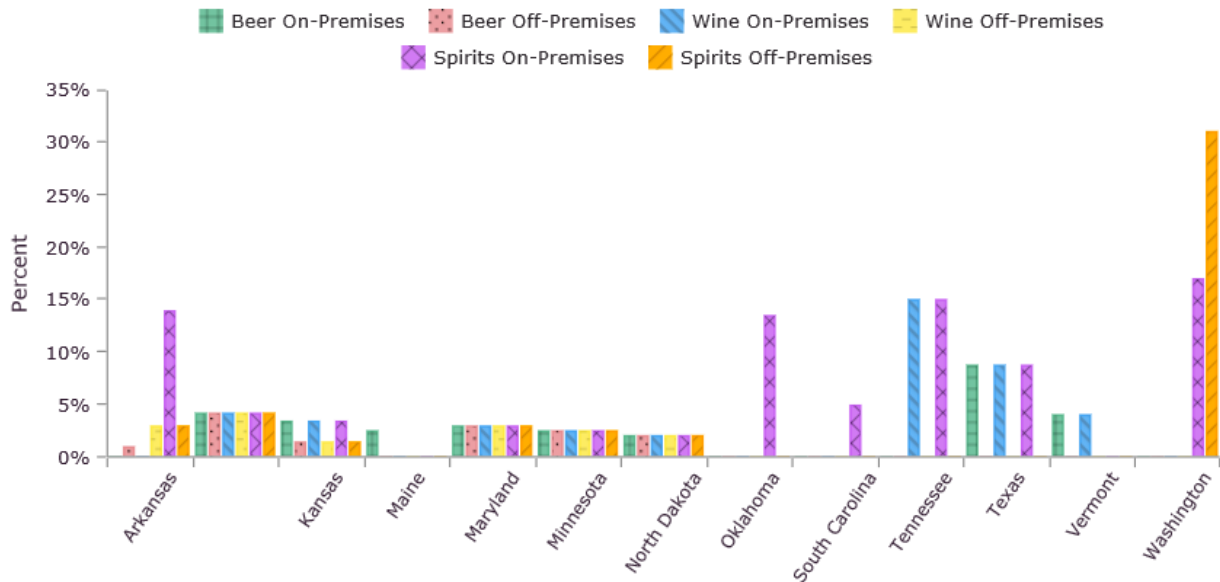
**Exhibit I.44: Specific Excise Tax per Gallon on Wine as of January 1, 2017**



**Exhibit I.45: Specific Excise Tax per Gallon on Distilled Spirits as of January 1, 2017**



**Exhibit I.46: Sales Tax Adjusted Retail Ad Valorem Excise Tax Rates in License States as of January 1, 2017**



**Exhibit I.47: Number and Percentage of States that Levy an Ad Valorem Excise Tax but Do Not Apply General Sales Tax**

Beverage type	Type of ad valorem excise tax	Number of states that levy ad valorem excise tax	Number of states that do not apply general sales tax when the ad valorem excise tax is levied	Percentage of states that do not apply general sales tax when the ad valorem excise tax is levied
Beer	onsite	9	7	78
	offsite	7	4	57
Wine	onsite	10	6	60
	offsite	8	4	50
Spirits	onsite	13	5	38
	offsite	9	5	56

**Exhibit I.48: Alcohol Tax Changes 2003–2017**

		Beer		Wine		Spirits		Total Number of Changes
		Specific excise tax	Ad valorem excise tax	Specific excise tax	Ad valorem excise tax	Specific excise tax	Ad valorem excise tax	
Number of jurisdictions that:	Increased rates	9	5	9	4	8	5	40
	Decreased rates	1	4	0	2	0	2	9

### Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policies titled "Alcohol Beverage Taxes – Beer," "Alcohol Beverage Taxes – Wine," and "Alcohol Beverage Taxes – Distilled Spirits" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Low-Price, High-Volume Drink Specials

### Policy Description

Restrictions on low-price, high-volume drink specials regulate on-premises retailers in their use of various price-related marketing tactics such as happy hours, two-for-one specials, or free drinks that encourage heavier consumption. These promotions are particularly prevalent in college communities, where large numbers of underage students are present.

Research has examined the impact of on-premises retail drink specials on binge drinking among college students. For example, one study measured self-reported binge-drinking rates among college students from 119 colleges, conducted an assessment of marketing practices of on-premises outlets in neighboring communities, and determined whether these communities restricted low-price, high-volume drink specials. Results demonstrated that price-related promotions were significantly correlated with higher binge drinking and self-reported drinking and driving rates among students (Wechsler, Lee, Nelson, & Lee, 2003).

Based on this and other research, the *Surgeon General's Call to Action* concluded that “increasing the cost of drinking can positively affect adolescent decisions about alcohol use,” and recommended “[e]limination of low price, high-volume drink specials, especially in proximity to college campuses, military bases, and other locations with a high concentration of youth” (HHS, 2007).

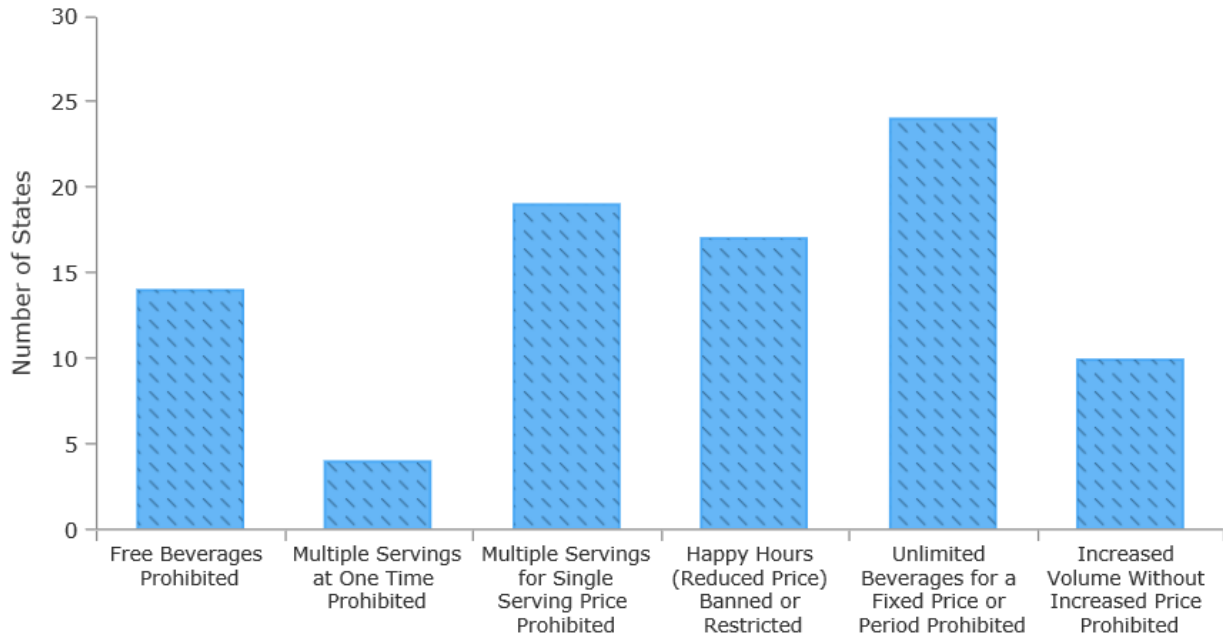
A state law concerning low-price, high-volume drink specials may prohibit or restrict the following practices:

1. Providing customers with free beverages either as a promotion or on a case-by-case basis (e.g., on a birthday or anniversary, as compensation for poor services).
2. Offering additional drinks for the same price as a single drink (e.g., two-for-ones).
3. Offering reduced-price drinks during designated times of day (“happy hours”).
4. Instituting a fixed price for an unlimited amount of drinks during a fixed period of time (e.g., “beat the clock” and similar drinking games).
5. Offering drinks with increased amounts of alcohol at the same price as regular-sized drinks (e.g., double shots for the price of single shots).
6. Service of more than one drink to a customer at a time.

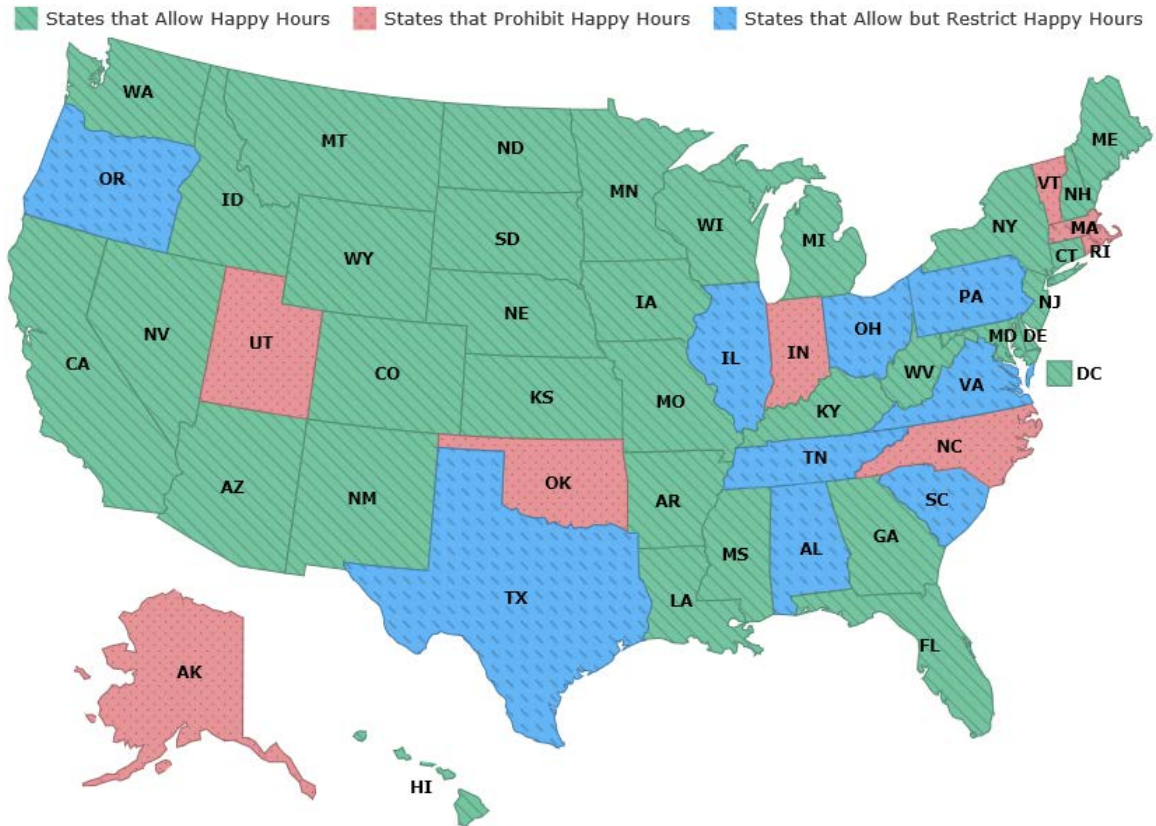
### Status of Low-Price, High-Volume Drink Specials Law

Exhibit 1.49 shows the number of states that prohibit one of the six low-price, high-volume specials listed above. Fourteen states prohibit free beverages. Four states prohibit multiple servings at one time. Nineteen states prohibit multiple servings for a single serving price. Twenty-four states prohibit unlimited beverages for a fixed price or period. Ten states prohibit increased volume without increase in price. As shown in Exhibit I.50, eight states prohibit happy hours (reduced prices). Nine additional states allow happy hours but restrict the hours in which they may be offered.

**Exhibit I.49: Number of States Prohibiting Various Low-Price, High-Volume Drink Specials**



**Exhibit I.50: Happy Hours 2017**



## Trends in Low-Price, High-Volume Drink Specials Law

Since 2011, one state (Pennsylvania) has increased the number of hours during which discounts may be offered. In 2012, Kansas changed its law to allow reduced-price drinks during designated times of day and increased volume of an alcoholic beverage. In 2015, Illinois changed its prohibition against multiple servings at one time to prohibiting multiple servings for a single serving price. At the same time, Illinois lifted its ban of “happy hour pricing” that prohibited discounting drinks during the day to permitting drink discounts before 10 p.m., provided the discounts do not exceed 4 hours per day and 15 hours per week.

### Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA’s APIS. Follow links to the policy titled “Drink Specials” for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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## Wholesaler Pricing Restrictions

### Policy Description

The 21st Amendment to the Constitution repealed Prohibition and gave states broad authority to regulate alcohol sales within their borders. Most states established a three-tier structure: producers, wholesalers, and retailers. Many states included restrictions on wholesaler pricing practices intended to strengthen the three-tier system, reduce price competition among wholesalers and retailers, and combat corruption and crime in the alcohol market.

Research suggests that the specific wholesaler pricing restrictions described below increase the price of alcohol to consumers. Research also shows that underage consumption and problems are strongly influenced by alcohol prices. One study has suggested that restrictions on certain wholesale pricing practices may have as strong an effect on alcohol pricing as alcohol taxes (Chaloupka, 2010).

Some states operate alcohol wholesale operations directly through a state agency, usually limited to distilled spirits, beer with high alcohol content, and wine with high alcohol content.<sup>14</sup> In these cases, the state sets wholesaler prices as part of its administrative function, and statutory provisions are relevant only to that portion of the wholesaler market in the control of private entities. For this policy, an index beverage has been selected: beer (5 percent), wine (12 percent), and spirits (40 percent). If the index beverage is controlled, in whole or in part, by the state at the wholesale level, the state is coded as “control” and no additional coding is displayed.

### Types of Wholesaler Pricing Policies

In general, wholesaler pricing policies fall within four types: (1) restrictions on volume discounts; (2) restrictions on discounting practices; (3) price posting requirements; and (4) restrictions on the ability of wholesalers to provide credit extensions to retailers. Policy categories are closely interrelated but may operate independently of each other. Each is described briefly below.

#### *Volume Discounting Restrictions*

Large retailers often have an advantage over smaller retailers due to the large volumes they are able to purchase at once. This purchasing power allows them to negotiate lower prices on most commodities and therefore offer items at lower prices to consumers. Many states have imposed restrictions on the ability of wholesalers to provide volume discounts—the same price must be charged for products regardless of the amount purchased by individual retailers. The primary purpose of these laws is to protect small retailers from predatory marketing practices of large-volume competitors and to prevent corruption. They have a secondary effect of increasing retail prices generally by making retail price discounting more difficult.

#### *Minimum Pricing Requirements*

States may require wholesalers to establish a minimum markup or maximum discount for each product sold to retailers based on the producer’s price for the product, or states may enact a ban against selling any product below cost. These provisions are designed to maintain stable prices

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<sup>14</sup> For a state-by-state review of control state wholesaler systems, see <http://www.apis.niaaa.nih.gov>.

on alcohol products by limiting price competition at both retail and wholesale levels. In most cases, this increases the retail price to consumers, and thus affects public health outcomes.

### ***Post-and-Hold Provisions***

This policy requires wholesalers to publicly “post” prices of their alcohol products (i.e., provide a list of prices to a state agency for review by the public, including retailers and competitors) and hold these prices for a set amount of time, allowing all retailers the opportunity to make purchases at the same cost.

Post-and-hold requirements are typically tied to minimum pricing and price discounting provisions and enhance the states’ ability to enforce those provisions. Wholesalers’ submissions can be reviewed easily to determine whether they are paying the proper taxes on their products and whether they are providing any illegal price inducements to retailers. Post-and-hold provisions reduce price competition among both retailers and wholesalers because posted prices are locked in for a set amount of time. They also promote effective enforcement of other wholesaler pricing policies. Some states require wholesalers to post prices but have no “hold” requirement—that is, posted prices may be changed at any time. This is a weaker restriction.

### ***Credit Extension Restrictions***

Wholesalers often provide retailers with various forms of credit (e.g., direct loans or deferred payment of invoices). Many states restrict alcoholic beverage wholesalers’ ability to provide credit to retailers, typically by banning loans and limiting the period of time required for retailers to pay invoices. The primary purpose of the restrictions is to limit the influence of wholesalers on retailer practices. When a retailer is relying on a wholesaler’s credit, the retailer is more likely to promote the wholesaler’s products and to agree to the wholesaler’s demands regarding product placement and pricing. Restrictions have a secondary effect of limiting the retailer’s ability to operate on credit, indirectly increasing retail prices.

## **Federal Court Challenges to State Wholesaler Pricing Restrictions**

As noted earlier, in general, states have broad authority under the 21st Amendment to the Constitution to regulate alcohol availability within their boundaries. That authority has been constrained by U.S. Supreme Court and Federal Court of Appeals cases, which have interpreted the Interstate Commerce Clause and Sherman Antitrust Act<sup>15</sup> to prohibit certain state restrictions on the alcohol market.<sup>16,17</sup> These cases have led to considerable uncertainty regarding the validity of state restrictions on alcohol wholesaler prices, and additional challenges to those

<sup>15</sup> July 2, 1890, ch. 647, 26 Stat. 209, 15 U.S.C. § 1-7.

<sup>16</sup> See, e.g., *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U.S. 97, 100 S.Ct. 937 (1980).

<sup>17</sup> Several federal and state courts have addressed the constitutionality of selected wholesaler pricing practices, with conflicting results. For example, in *Costco Wholesale Corp. v. Maleng*, 522 F.3d 874 (9th Cir. 2008), the plaintiff challenged nine distinct Washington state restrictions governing wholesaler practices, including policies in all four categories described above. The court upheld the state’s volume discount and minimum markup provisions but invalidated the post-and-hold requirements. In *Manuel v. State of Louisiana*, 982 So.2d 316 (3rd Cir. 2008), a Louisiana appellate court rejected six separate challenges to the Sherman Act, including the ban on volume discounts. It upheld the state’s ability to regulate alcoholic beverages within the state and concluded that the Sherman Act had to yield to the state’s authority granted under the 21st Amendment. Maryland’s post-and-hold law and volume discount ban were challenged in *TFWS, Inc. v. Franchot*, 572 F.3d 186 (4th Cir. 2009), a complicated case involving multiple appeals and rehearings. On Maryland’s fourth appeal, the court upheld its previous decisions to strike down the two policies.

restrictions are anticipated. In the meantime, this uncertainty has prompted states to reexamine their alcohol wholesaler practices provisions.

## **Status of Wholesaler Pricing Restrictions**

### ***Federal Law***

Federal law addresses restrictions on wholesaler credit practices:

The Federal Alcohol Administration Act provides for regulation of those engaged in the alcohol beverage industry and for protection of consumers (27 U.S.C. § 201 et seq). Under the Act, wholesalers may not induce retailers to purchase beverage alcohol by extending credit in excess of 30 days from the date of delivery (27 U.S.C. § 205(b)(6), 27 C.F.R. § 6.65).

Some states allow wholesalers to extend credit to retailers for a longer period than is permitted under federal law.

### ***State Law***

Exhibits I.51 through I.54 show summary distributions of volume discounts, minimum markup/maximum discount, post-and-hold, and retailer credit for the license states (beer = 50 license states; wine = 43 license states; spirits = 34 license states).<sup>18</sup>

Only two license states (Alaska and Rhode Island) have no wholesaler pricing restrictions. Among the remaining states, bans on extending credit and post-and-hold (excluding post only) are the most common wholesaler pricing restrictions (ranging from about a fifth to about half the states depending on beverage type). Other restrictions range from under 10 percent of the license states to about a quarter of the states depending on beverage type.

## **Trends in Wholesaler Pricing Restrictions**

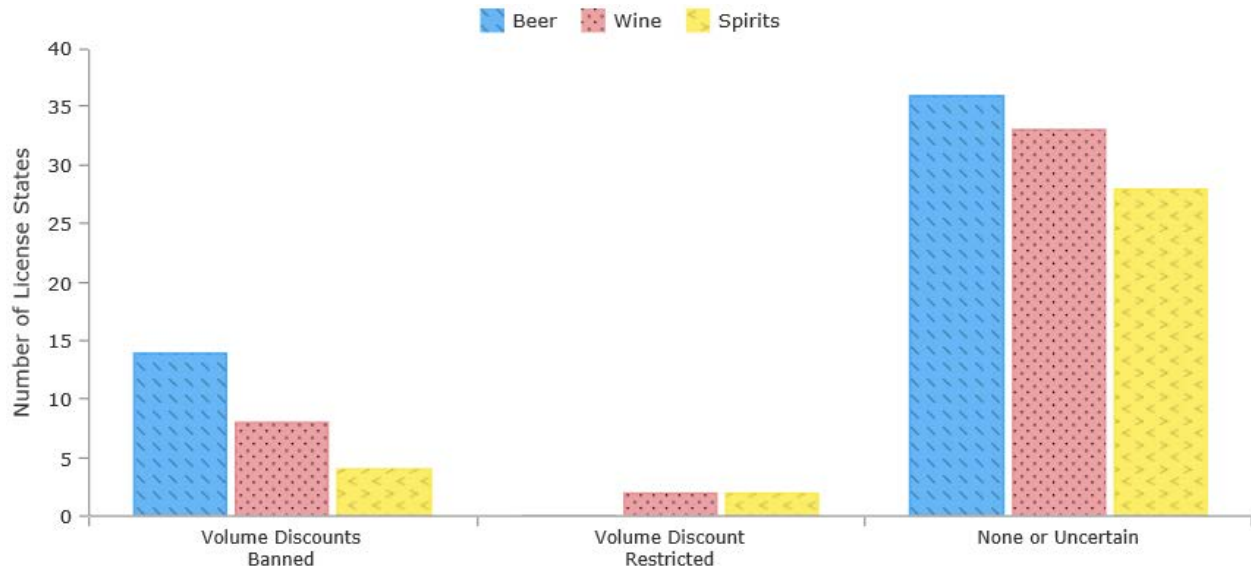
In 2016, two states modified their post-and-hold provisions. Delaware changed its regulatory requirement from a post-and-hold law of 5 days to a post-only requirement for all three beverage subtypes. Additionally, Michigan reduced the time of its minimum number of days to hold prices from 180 days to 90 days for wholesale pricing of beer.

Exhibits I.55 through I.58 present detailed state-by-state information for wholesaler pricing policies for beer.

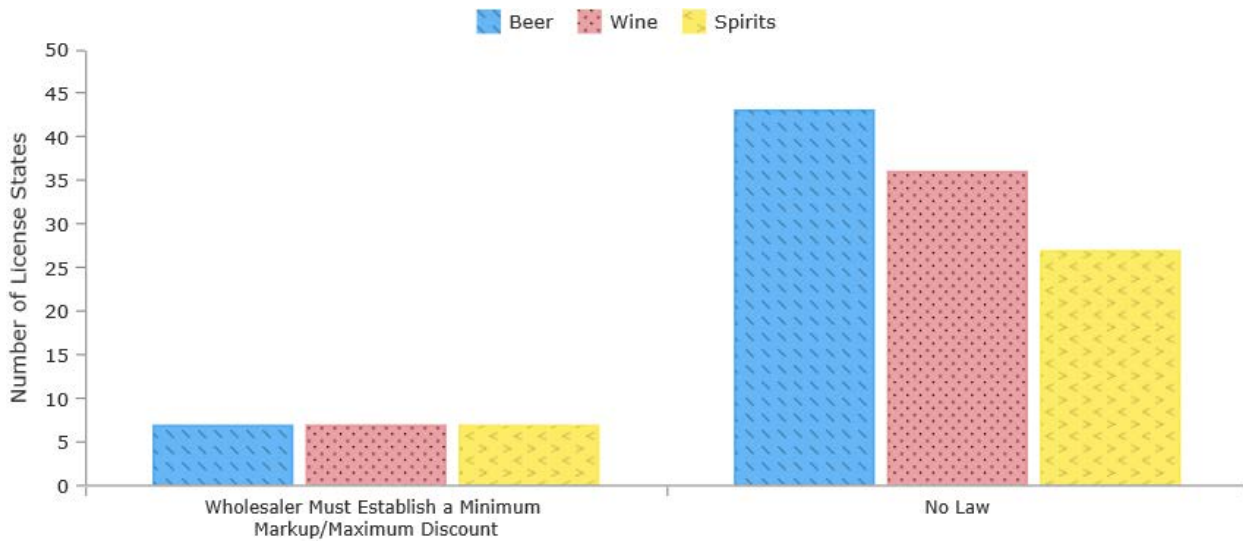
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<sup>18</sup> Comparisons among beverage types must be made with some caution, because the number of license states differs for each beverage.

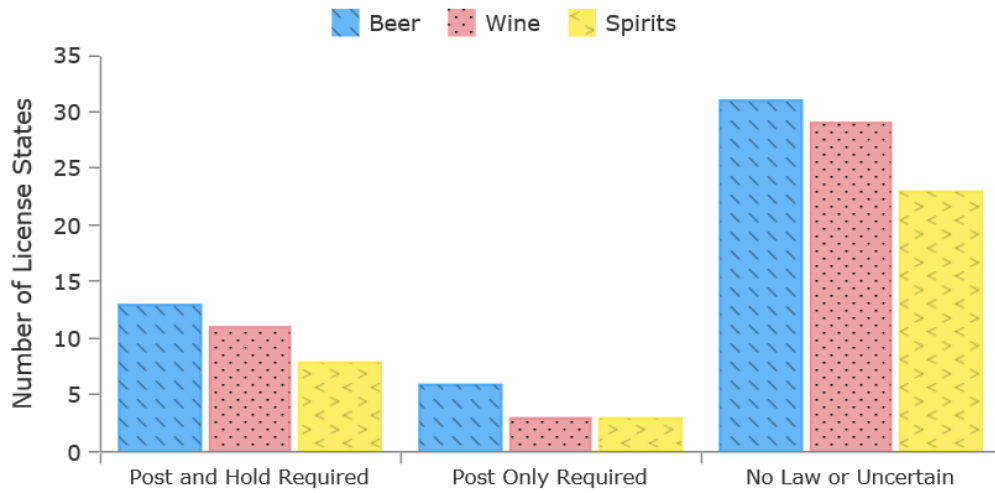
**Exhibit I.51: Volume Discounts**



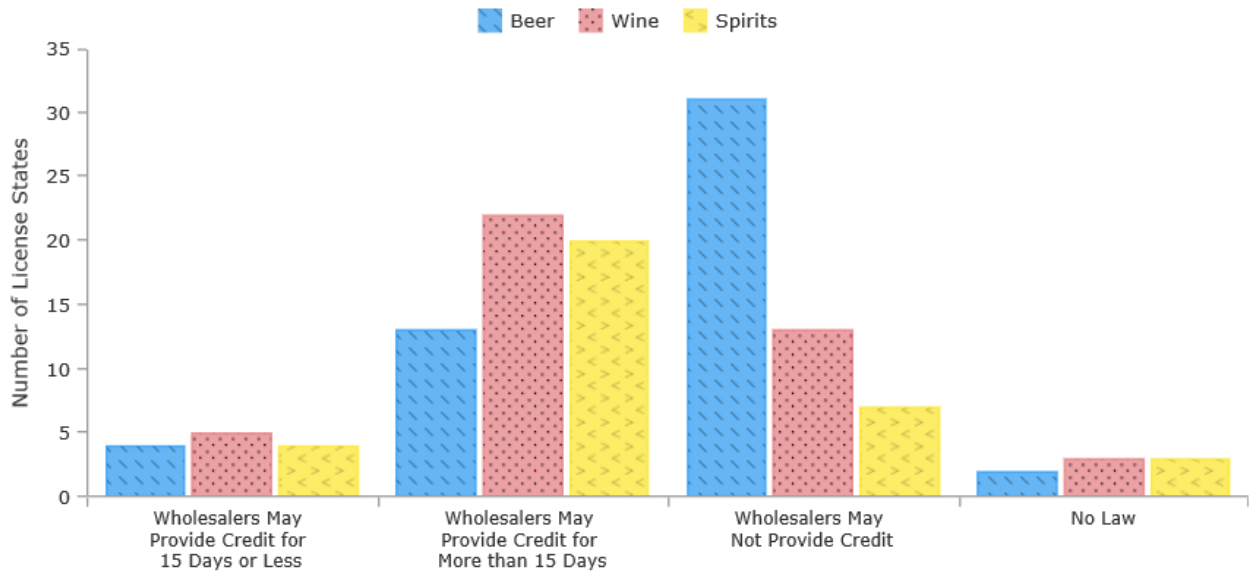
**Exhibit I.52: Minimum Markup/Maximum Discount**



**Exhibit I.53: Post and Hold**

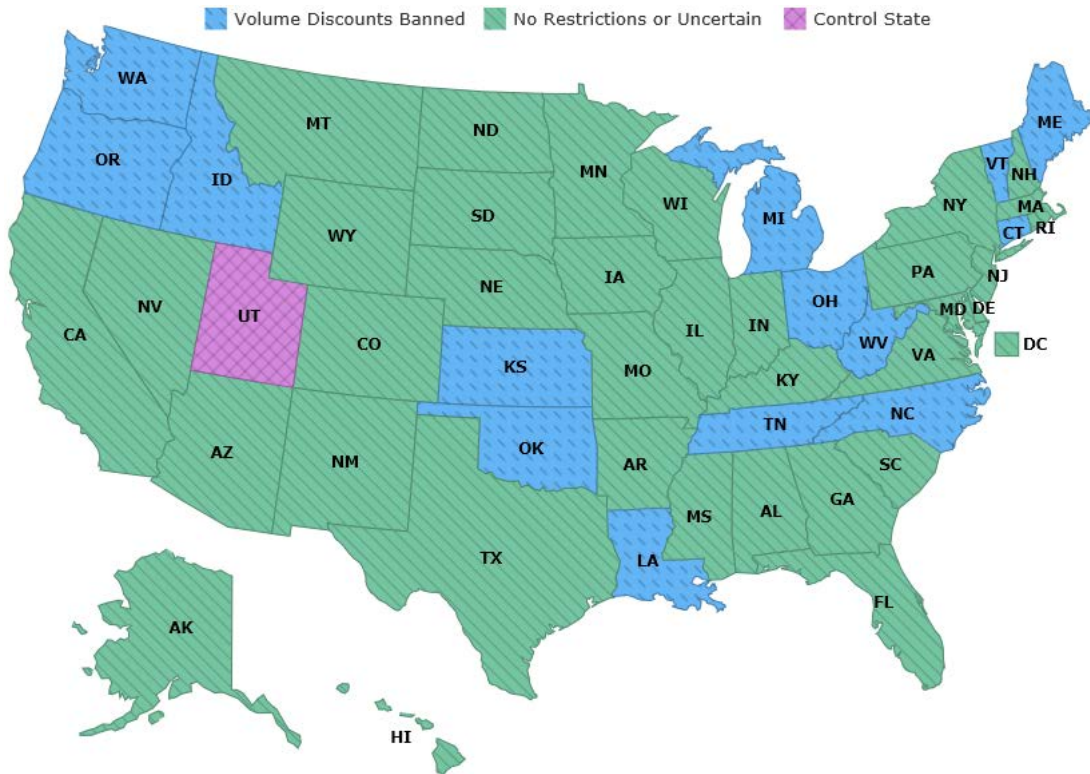


**Exhibit I.54: Retailer Credit**

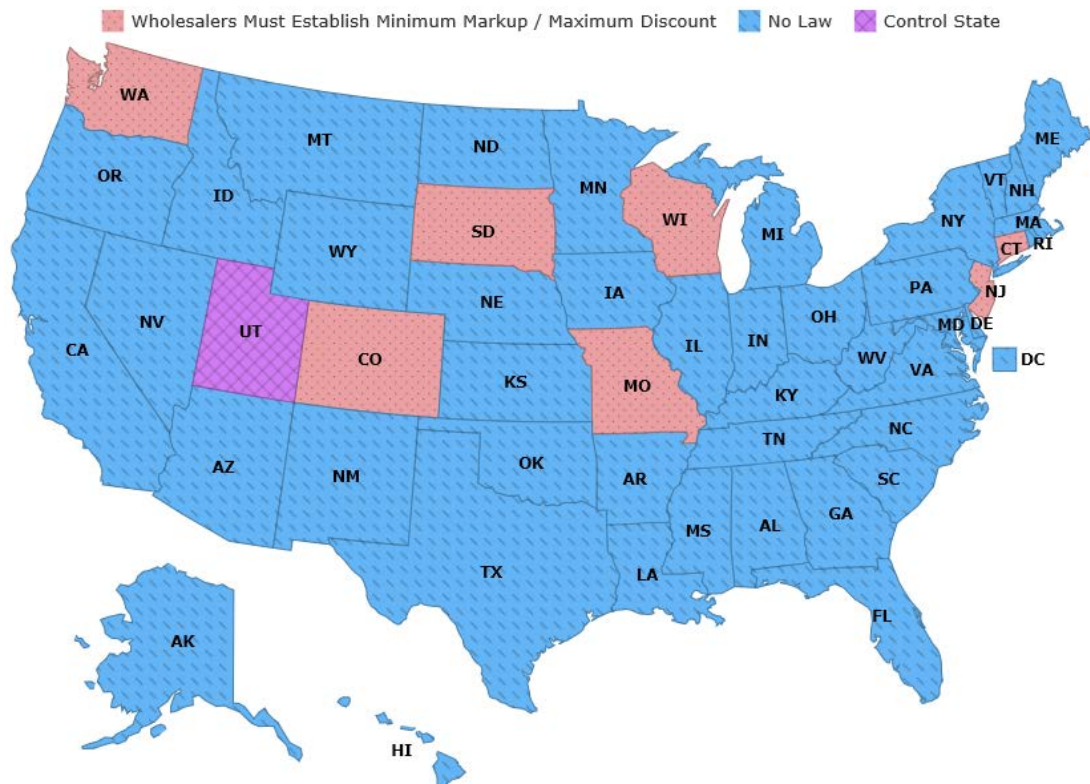




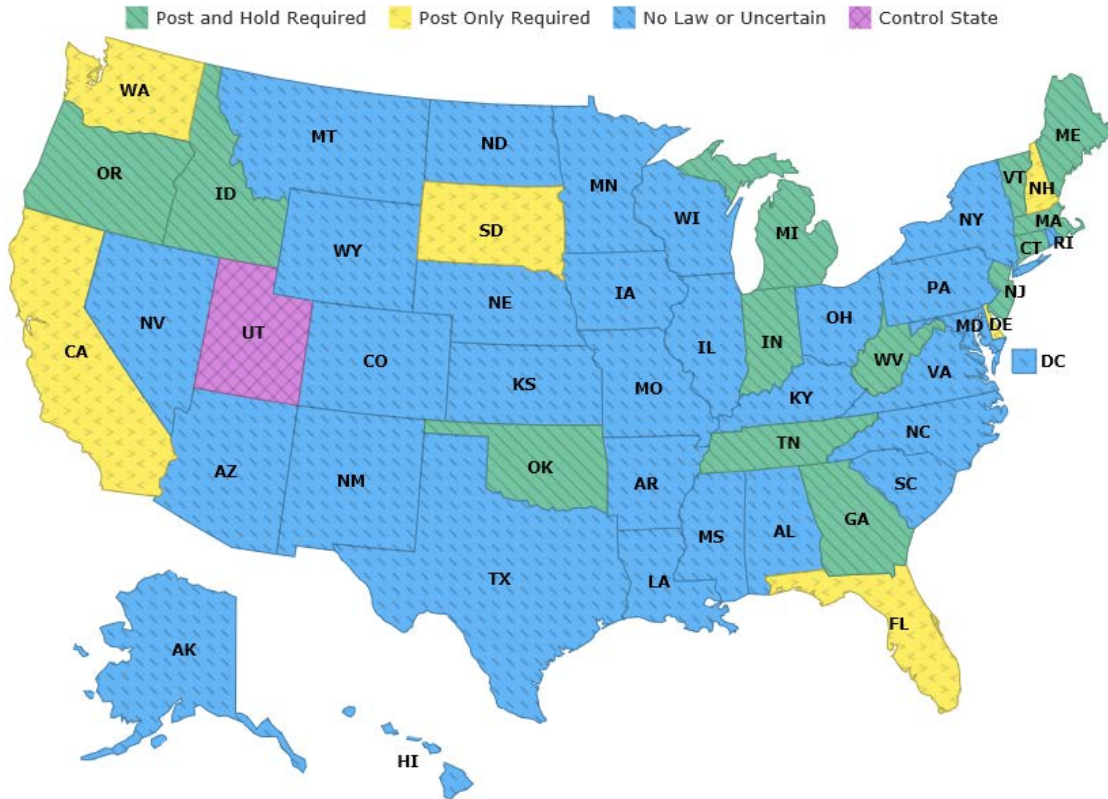
**Exhibit I.55: Volume Discounts for Beer as of January 1, 2017**



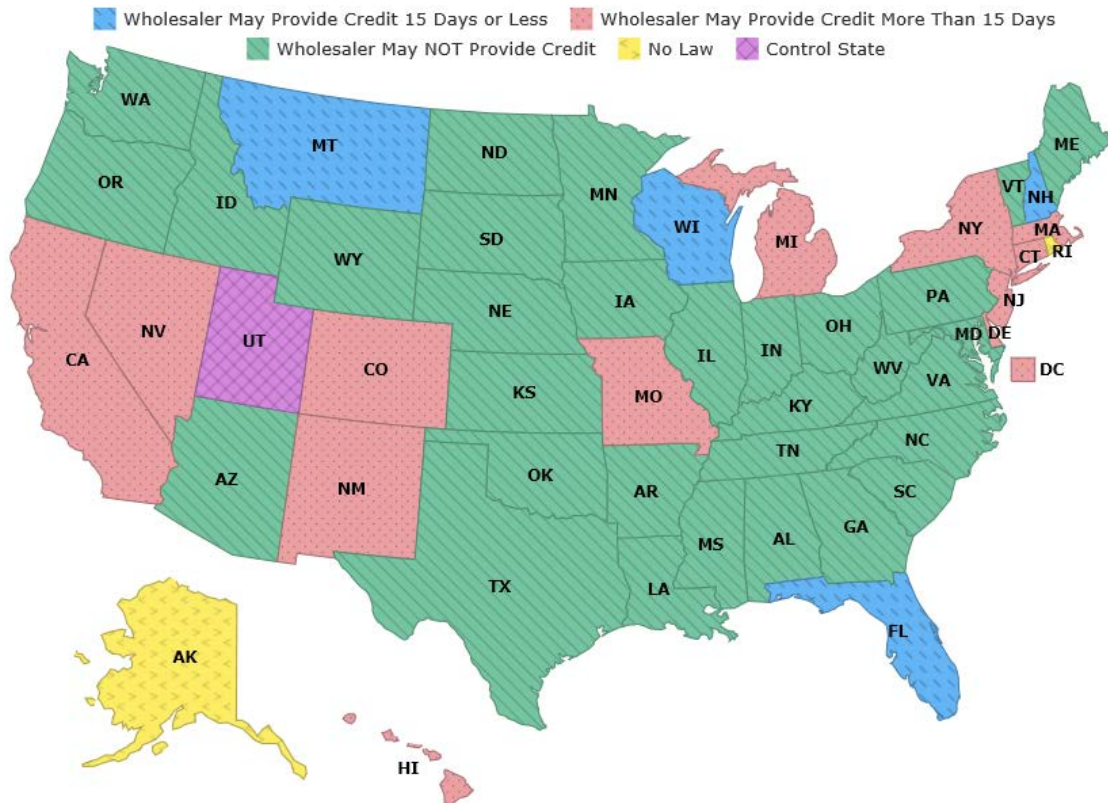
**Exhibit I.56: Minimum Markup, Maximum Discount for Beer as of January 1, 2017**



**Exhibit I.57: Post-and-Hold Requirements for Beer as of January 1, 2017**



**Exhibit I.58: Retail Credit for Beer as of January 1, 2017**



## Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA's APIS. Follow links to the policy titled "Wholesale Pricing Practices and Restrictions" for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

Chaloupka, F. (2008, January). *Legal Challenges to State Alcohol Control Policy: An Economist's Perspective*. Presentation at the Alcohol Policy 14 Conference, San Diego, CA.

Chaloupka, F. J. (2010). *Beyond tax: The need for research on alcohol pricing policies*. *Addiction*, 105, 397

Gruenewald, P. J., Ponicki, W. R., Holder, H. D., & Romelsjö, A. (2006). Alcohol prices, beverage quality, and the demand for alcohol: Quality substitutions and price elasticities. *Alcoholism: Clinical and Experimental Research*, 30, 96–105.

National Research Council & Institute of Medicine. (2004). *Reducing Underage Drinking: A Collective Responsibility*. Washington, DC: National Academies Press.



## Chapter II: The Importance of Enforcement In Preventing Underage Drinking

As noted in the Introduction, implementation of the 26 evidence-based policies covered in Chapter I is largely synonymous with enforcement. A significant component of the STOP Act's mission is to collect data and report on each state's performance in enforcing policies designed to prevent or reduce underage drinking.

To that end, the annual STOP Act State Survey includes a section devoted to enforcement of these laws, and covers the types of programs or actions implemented, whether they are conducted at both the state and local level, number(s) of enforcement actions taken (when available), state expenditures on enforcement activities, and more. The following discussion of enforcement provides the background and context for these data.

### Concepts

#### Mechanisms

Typically, an alcohol policy seeks to change the behavior of targeted individuals, groups, or organizations. The intended change in behavior may or may not occur, depending in part on the extent to which the policy is enforced.

It is important to distinguish between compliance and enforcement. Compliance is the extent to which an individual, organization, group, or population acts in accordance with a specific public policy. Enforcement is the sum total of actions taken by public entities to increase compliance. Enforcement includes three components: policing, adjudication, and sanctioning. Enforcement data collected by the STOP Act State Survey generally combine adjudication and sanctioning because the latter usually requires the former.

The role of enforcement in policy effectiveness varies depending on the nature of the policy. At one extreme, policies such as alcohol taxes are virtually self-enforcing in that sellers must regularly report sales data. By contrast, laws that prohibit sales to minors require relatively high enforcement levels to achieve desirable levels of compliance. For the latter, detecting a violation may require regular compliance checks and recording sources of alcohol from minor in possession (MIP) arrests.

The impact of enforcement on compliance with alcohol policies is a function of both actual and perceived levels of enforcement (i.e., levels of policing, adjudication, and sanctioning). *Actual* enforcement levels may vary depending on the strategies employed (e.g., random vs. complaint-based compliance checks) and on quantitative differences in policing, adjudication, and sanctioning (e.g., numbers of officers on patrol, severity of sanctions). *Perception* of the probability of apprehension (policing), swiftness and certainty of a penalty (adjudication), and severity of the penalty (sanctioning) also affect compliance with a particular policy. These perceptions are key factors in the extent to which an alcohol-related policy functions as a deterrent to illegal behavior (Ross, 1992). Factors that affect these perceptions, such as publicity about enforcement efforts, may be construed as part of enforcement (Hingson et al., 1996). Compliance may also be affected by extra-legal factors (See Table 2).

**Table 2: Contextual Factors Affecting Compliance<sup>19</sup>**

Variable	Relevance to Enforcement	Relevance to Compliance
<b>Knowledge and awareness of enforcement personnel and the public</b>	Enforcement personnel who lack knowledge of a law or policy or lack skill in using enforcement technologies (e.g., field identification of intoxication) may be less effective in enforcement activities.	Increasing public awareness of the existence or enforcement of a policy and efforts to enforce it tend to increase compliance.
<b>Costs</b>	Increasing costs of enforcement (either absolute or relative to benefits) can decrease the attractiveness of an enforcement effort to policymakers, who must balance enforcement against other priorities.	Policy complexity may tend to reduce compliance if (1) the burden of complying is increased in terms of details that must be addressed, work that is required, or costs that must be incurred, or (2) the risk that noncompliance with specific provisions will be detected is perceived as low.
<b>Complexity</b>	All else being equal, complex laws or policies may be more difficult to enforce (detect and prosecute) than simple laws or policies.	When laws or policies are complex, compliance may be reduced (1) due to the sheer amount of detail involved in complying, (2) due to the work and cost involved in complying, or (3) if the risk of detection of small deviations is low.
<b>Norms</b>	Enforcement personnel tend to act in accordance with prevailing norms, more vigorously enforcing laws and policies prohibiting behavior that is counter-normative in a given community than behavior that is socially acceptable.	Avoidance of specific behaviors may be as much a function of social acceptability as of legal proscriptions. Thus, for a given level of enforcement, compliance may vary as a function of community norms.
<b>Public support</b>	High public support can facilitate enforcement through allocation of public funds, political support for public officials who advocate strong enforcement, or formal or informal cooperation between citizens and public safety officials.	Public support is a visible manifestation of norms. As such, public support for a given law or policy should tend to increase compliance.
<i>Note:</i> For further discussion and analyses of these factors and a literature review, see: <a href="https://alcoholpolicy.niaaa.nih.gov/Enforcement_and_Compliance.html">https://alcoholpolicy.niaaa.nih.gov/Enforcement_and_Compliance.html</a> .		

A large body of literature addresses the factors related to effective enforcement (Klitzner, 2002; Klitzner & Sole-Brito, 2002; Levy, 2002). It is important to note that policies and their enforcement cannot be distinguished easily in practice. Laws may specify sanctions (e.g., use/lose laws) or enforcement practices (e.g., administrative license revocation).

According to Ross (1984), *deterrence theory* is the most widely used model of enforcement effectiveness. This theory stipulates that undesirable behavior will be reduced by the extent that

<sup>19</sup> Adapted from NIAAA's APIS: Enforcement and Compliance Resource, Table 3 (Sample Contextual Factors), [http://alcoholpolicy.niaaa.nih.gov/uploads/Table\\_3\\_-\\_Sample\\_Contextual\\_Factors\\_12\\_18\\_07.pdf](http://alcoholpolicy.niaaa.nih.gov/uploads/Table_3_-_Sample_Contextual_Factors_12_18_07.pdf).

those targeted by enforcement activities (e.g., alcohol retailers) perceive that threatened sanctions are certain, severe, and promptly imposed (celerity). Ross argued that severity is largely irrelevant when certainty of punishment is low and, conversely, that even mild penalties have a deterrent effect when sanctions are a near certainty (e.g., parking enforcement).

As noted by Klitzner and Sole-Brito (2002), Ross is essentially stating that deterrence is a multiplicative function of the perceived risk of being punished and the perceived severity of penalties. The importance of celerity is debatable, because the most commonly cited example (administrative license revocation for impaired driving offenses) increases both celerity and certainty. Although deterrence literature is largely focused on criminal activity, the same concepts apply in a variety of other areas not generally considered criminal, for example, compliance with health care regulations (Bartrum & Bryant, 1997; Walker, 2002).

Deterrence is generally divided into two types, deterrence aimed at convicted offenders (secondary or specific deterrence) and deterrence aimed at the general public (primary or general deterrence). Incapacitation (supervision, incarceration, a number of hybrids such as electronic monitoring, license revocation, etc.) is a widely used form of specific or secondary deterrence in the United States. Whatever effects incapacitation may have on individuals' propensity to engage in future crime, they are less likely to recidivate while incarcerated or under supervision.

Vingilis (1990) suggested that the importance of classical deterrence diminishes as norms against a behavior increase. Social norms may change through social marketing or other media campaigns (e.g., aimed at reducing drinking and driving), altering the dynamic of deterrence. When norms are strong, only those who are "abnormally socialized" need an additional motivation to behave. The author argues that the behavior of most citizens is governed by informal social sanctions, and cautions that (a) effective enforcement and deterrence are interactions among individuals and environments, and (b) deterrence is dynamic, with the population that is deterred by a given enforcement activity constantly in flux.

## Measures

Research literature relies on three types of measurements to assess the extent and effectiveness of enforcement interventions. *Categorical measures* assess which of a set of possible enforcement strategies (e.g., random vs. complaint-based compliance checks) or sanctions (e.g., use/lose penalties) are implemented in a jurisdiction. *Quantitative measures* assess the resources devoted to enforcement (personnel, budgets, specialized equipment), number of enforcement activities (e.g., shoulder tap operations) conducted, number or percentage of persons or entities targeted, number of sanctions imposed, and severity of sanctions imposed. These measures are sometimes referred to as "enforcement pressure." *Surrogate measures* use compliance rates (e.g., number of retail outlets that fail compliance checks, number of MIP arrests, or number of young people and retailers that actually receive sanctions) to measure enforcement. These measures reflect an amalgam of both enforcement and compliance and should be viewed with some caution.<sup>20</sup>

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<sup>20</sup> To be fully useful as measures of enforcement, these data must be corrected for enforcement pressure. However, measures of enforcement pressure can be difficult and expensive to obtain. Accordingly, arrests, compliance check failures, and similar data are often used in enforcement research.

## Literature

Historically, studies that have tested enforcement interventions in relation to outcomes (e.g., incidents of drinking and driving and underage drinking parties) make clear that enforcement can result in greater compliance and better public health outcomes (Preusser, Ulmer, & Preusser, 1992). However, enforcement of underage drinking policies is often uneven, inconsistent, and sporadic, and outcomes generally diminish over time (Ferguson, Fields, & Voas, 2000; Forster et al., 1994; Montgomery, Foley, & Wolfson, 2006; Mosher, Toomey, Good, Harwood, & Wagenaar, 2002; Preusser et al., 1992; Voas, Lange, & Tippetts, 1998; Wagenaar & Wolfson, 1995; Wolfson, Wagenaar, & Hornseth, 1995).

Of all enforcement practices, compliance checks (or decoy operations) have been most frequently studied (and are one focus of the STOP Act State Survey data presented later in this report). These practices, in which trained underage (or apparently underage) operatives (“decoys”) working with law enforcement officials enter retail alcohol outlets and attempt to purchase alcohol, are a way of reducing sales of alcohol to minors. The 2003 NRC/IOM report on preventing underage drinking (NRC & IOM, 2004) includes the recommendation that compliance checks be carried out regularly and comprehensively at the state and local levels. The 2016 *Surgeon General’s Report on Alcohol, Drugs, and Health* (HHS, 2016) describes the use of compliance checks as “an effective way to reduce alcohol consumption by minors.”

The effectiveness of compliance checks depends on consistency. To illustrate, a national study collected data from state alcohol beverage control agencies and a random sampling of local law enforcement agencies (Erickson, Smolenski, Toomey, Carlin, & Wagenaar, 2013; Rutledge et al., 2013). Respondents were asked to report on the number of compliance checks they conducted and on such recommended practices as (a) checking all outlets in their jurisdiction; (b) conducting checks at least three or four times a year; and (c) conducting a follow-up check of establishments within 3 months of having failed a compliance check. Thirty-nine percent of local agencies and 79 percent of state agencies indicated they conducted compliance checks (Toomey, Lenk, Nelson, Jones-Webb, & Erickson, 2012). Although 60 percent of the agencies reported checking all outlets in their jurisdiction, only one-fifth conducted checks three to four times a year, and one third conducted follow-up checks. Only 4 to 6 percent conducted all three recommended practices (Erickson et al., 2014). As with previous studies, the use of compliance checks to enforce underage sales policies was found to be uneven and inconsistent in intensity.

A number of studies have used experimental designs to determine whether increasing the number of compliance checks results in lower rates of sales to minors. The NIAAA-funded Community Trials Project conducted experimental interventions to reduce underage drinking in three cities, including a six-fold increase in compliance checks in a randomly selected group of test outlets. At follow-up, the test outlets were half as likely to sell to minors as control sites (Grube, 1997).

In Concord, New Hampshire, an enhanced enforcement campaign employed quarterly compliance checks of all off-sale licensees, enhanced administrative penalties, and a media campaign (Centers for Disease Control and Prevention, 2004b). Similar to the Community Trials Project, this campaign resulted in a 64 percent reduction in sales to minors and a temporary reduction in alcohol consumption and binge drinking among high school students.



A multi-community time series trial, Complying with the Minimum Drinking Age (CMDA), also tested increased enforcement compliance checks, comparing this strategy with training retail outlet managers to reduce risks associated with alcohol sales (Wagenaar, Toomey, & Erickson, 2005). Although the effects of the training program were mixed, the compliance check intervention resulted in an immediate 17 percent reduction in underage sales. Over a 3 month period, however, these effects deteriorated completely in the case of off-sale premises and by half among on-sale premises. Data from the CMDA study also demonstrated that the effects of compliance checks may spill over to neighboring establishments (Erickson et al., 2013). Outlets that had a close neighbor that had been checked were less likely to serve to underage-appearing decoys.

Some of these experimental studies have included media campaigns to increase (a) public awareness of enforcement efforts, (b) the perception of risk of arrest, or (c) the perception of risk of sanctions. As discussed above, these perceptions can play an important role in compliance with the law. When community-based interventions to prevent underage drinking or other alcohol-related harms include a media campaign, this may increase public perception of the likelihood that the law will be enforced and violators sanctioned.

The comprehensive, multifaceted Saving Lives Program was undertaken in six Massachusetts communities to reduce alcohol-impaired driving and related problems (Hingson et al., 1996). In addition to enhanced enforcement and educational programs, media campaigns were implemented to increase public awareness of the issue. Among other results, these communities showed a 42 percent decline in alcohol-related fatal crashes relative to the rest of the state. Awareness of enforcement notably increased among teenagers. For example, the percentage of this group that believed the license of a person caught drinking and driving could be suspended before a trial increased from 61 percent to 76 percent in the test communities, compared with no change in the rest of the state.

The Community Trials Project discussed above also combined enhanced enforcement with local media coverage. Highly visible enhanced enforcement, such as roadside checkpoints, also served to increase both actual enforcement and perceived risk of arrest (Grube, 1997; Holder et al., 2000). This combination of environmental strategies resulted in lower volumes of self-reported drinking and fewer nighttime crashes.

A key determinant of enforcement effectiveness is the resources devoted to enforcement actions. A study that examined the relationship among underage alcohol policies in 50 California cities, enforcement of these policies, and adolescent alcohol use, identified an inverse relationship between the funding of enforcement of underage drinking laws and frequency of past-year underage alcohol use (Paschall, Grube, Thomas, Cannon, & Treffers, 2012). Similarly, a study of binge drinking among college students found a significant association between binge drinking rates and state ratings for resources devoted to enforcement (Nelson, Naimi, Brewer, & Wechsler, 2005).

## Practices

The STOP Act State Survey includes questions about the practices used by the states and (to the extent known) by local law enforcement to enforce underage drinking policies. Whether at the point of sale or through other forms of illegal access to alcohol, these practices aim to both prevent current underage possession and consumption and deter future incidents.

In addition to compliance checks (discussed above), two other enforcement strategies are employed at the point of sale to prevent youth access to alcohol: Cops in Shops and shoulder tap operations (NRC & IOM, 2004; Paschall, Flewelling, & Grube, 2009). In the Cops in Shops program (developed by the Century Council and sponsored by the alcohol industry), undercover law enforcement officers pose as employees or customers in retail alcohol outlets to catch underage persons who attempt to purchase alcohol or adults who purchase alcohol for minors. Cops in Shops campaigns involve voluntary participation of retailers and are often well publicized, with the goal of educating the public and deterring underage access to alcohol.

Shoulder tap operations are another type of decoy operation. Because young people may perceive asking an adult to purchase alcohol for them as a less risky strategy for obtaining alcohol, this is another important point of access for law enforcement to address. In actual transactions, both the underage person and the adult are in violation of the law. In shoulder tap operations, trained young people (decoys) approach individuals outside of retail alcohol outlets and ask them to make an alcohol purchase. If the adult makes the purchase and gives it to the decoy, law enforcement may cite or arrest the adult.

Away from the point of sale, youth frequently are able to access alcohol at parties or other social gatherings. Parties are often cited as a high-risk setting for underage alcohol consumption and are linked to impaired driving, violence, and property damage (Hoover, 2005). In response, many local law enforcement agencies have used party patrols to intervene. Party patrols (or party dispersal) operations are patrols that identify underage drinking parties, make arrests, and issue citations. Police may use local noise or nuisance ordinances as the basis for entering the premises of parties involving underage drinking. They may also conduct regular weekend patrols of locations where underage parties or gatherings are known to occur (NRC & IOM, 2004).

Data collected by the STOP Act State Survey provide greater insight into the use of such practices (compliance checks, Cops in Shops, shoulder tap operations, and party patrols) by states and local jurisdictions. Together with the data collected on MIP arrests, penalties imposed for sales to minor violations (fines, license suspensions and revocations), and state expenditures on enforcement, they provide a more detailed picture of the underage drinking enforcement environment at both the state and national levels.

## Chapter III: Enforcement and Prevention Activities-- 2017 State Survey Results

The STOP Act requires annual reporting of data from the 50 states and the District of Columbia on their performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking. The STOP Act State Survey was developed to efficiently collect the portions of this data that were not available elsewhere.

Administered since 2011, the STOP Act State Survey has collected data on the following topics:

1. Enforcement programs to promote compliance with underage drinking laws and regulations.
2. Programs targeted to youth, parents, and caregivers to deter underage drinking.
3. State interagency collaborations to implement prevention programs, best-practice standards, and collaborations with tribal governments.
4. The amount that each state invests on the prevention of underage drinking.

The states' survey responses demonstrate the states' commitment to the reduction of underage drinking and its consequences, a key conclusion of the survey. Evidence of this commitment can be seen by the following: (1) all states completed the 90-question survey, (2) most reported numerous program activities, and (3) in many cases, states provided substantial detail about those activities (see individual state summaries).

Results presented here must be viewed with caution. In many cases, substantial missing data decrease the extent to which a meaningful conclusion can be drawn. Caution must also be exercised in interpreting changes from 2011 to 2017, given variations in data availability.

### Enforcement Programs

The majority of states collect data on state compliance checks, minor in possession (MIP) charges, and penalties imposed on retail establishments. However, fewer than one-third of the states collect data on local enforcement efforts. Thus, the ability to draw conclusions about enforcement activities and effectiveness is limited, because a substantial portion of underage drinking law enforcement happens at the local level. Improvements in state enforcement data systems would increase the accuracy of these analyses in future years.

Overall, enforcement activities appear highly variable across the states. Compliance checks and other enforcement activities related to furnishing (Cops in Shops, shoulder tap operations, underage alcohol-related fatality investigations, and enforcement of direct shipment laws) are fairly widely implemented, although not necessarily at both state and local levels. The total number of checks is modest, however. Fifty-six percent of those states conducting checks test 20 percent or fewer of their licensees. Sanctions for furnishing are predominantly fines, which are about eight times more common than suspensions. Revocations are extremely rare; 72 percent of the states in which license revocation is an option reported revoking one or no licenses.

Data on MIP activities (an index of the enforcement of a variety of laws aimed at deterring underage drinking) revealed medians of 0.44 arrests per 1,000 underage drinking occasions, and 479 arrests per 100,000 in a population of 16- to 20-year-olds.

## Programs Targeted to Youth, Parents, and Caregivers

States reported implementing a wide variety of underage drinking prevention programs for youth, parents, and caregivers. Many well-known programs were reported, including those focused on life skills, refusal skills, media advocacy, community organizing, and environmental change. More than half (53 percent) of the programs focused on individuals, while one in five programs focused on environmental change.

Data on numbers of program participants were limited, owing perhaps to inherent difficulties in estimating program participation for programs focused on entire populations or subpopulations (e.g., environmental change programs). Thirty-nine percent of the states reported implementing programs to measure or reduce youth exposure to alcohol advertising and marketing.

Evaluation of underage drinking prevention programs is not comprehensive. Fifty-two percent of the programs the states described have been evaluated, and reports are available for 50 percent of these. As with enforcement, assessments of program effectiveness are limited by a lack of relevant data.

Ninety percent of the states reported they had best practice standards for underage-drinking-prevention programs. Eighty percent of states with standards reported that a state agency had contributed to establishing their best standards, and 80 percent indicated that their standards were based on federal agency guidelines. Nearly two thirds (65 percent) included SAMHSA and the Center for Substance Abuse Prevention (CSAP) in their list of agencies from which standards were obtained.

## Collaborations, Planning, and Reports

Seventy-six percent of states reported the existence of a state-level interagency body or committee to coordinate or address underage drinking prevention activities. However, of the states with such a committee, only 14 percent included the governor and only 8 percent included a representative of the legislature.

Thirty-eight percent of the states with interagency committees included community coalitions and 43 percent included college or university administrations, campus life departments, or campus police. Nearly one-third of the states included local law enforcement, and about 1 in 10 included youth. Overall, key decisionmakers (e.g., governors, legislatures) were underrepresented on the interagency committees.

States were asked whether they had prepared a plan for preventing underage drinking or issued a report on underage drinking in the past 3 years. One half of the states had prepared a plan, and 54 percent had issued a report.

## State Expenditures on the Prevention of Underage Drinking

States were asked to estimate state expenditures for two categories of enforcement activities and five types of programs targeted to youth, parents, and caregivers. The largest expenditure category is for community-based programs, followed by K–12 programs. The median of expenditures for programs targeted to youth, parents, and caregivers (\$98,000) is 23 times that for all enforcement activities (median = \$4,336), and the total dollar amount expended for these nonenforcement programs (approximately \$120.3 million) is 21 times the total dollar amount spent on enforcement (approximately \$5.8 million).

Data reporting was incomplete, with response rates ranging from 33 to 76 percent (median = 58 percent) across the five expenditure categories for programs targeting youth, parents, and caregivers. Thus, these results must be viewed with some caution. However, these data may be difficult for states to assemble, given multiple funding streams and asynchronous fiscal years, among other issues.

It should be noted that the total dollar amount reported in the state survey, whether for enforcement or other programs, reflects only funds from the state's budget, and represents only a relatively small portion of total state spending on substance use prevention. Each state receives substantial federal funding (through block grants and other sources) that is used for underage drinking prevention and treatment and as well as substance abuse prevention generally. Each of the 51 State Reports includes a pie chart showing sources of funds spent by the state on substance abuse prevention and treatment.

### **Comparison of Enforcement Data: 2011–2017**

During the 7 years that the STOP Act State Survey has been implemented, states varied greatly in their completion of datasets for all years. Fewer than half of the states provided information in all 7 years for all of the *enforcement data* categories selected for comparison.

Forty-nine percent of the states provided state compliance check data for all 7 years. Fifty-six percent of the states that reported data for all 7 years reported an increased number of compliance checks between 2011 and 2017. Only 6 percent of the states reported on local compliance checks and 4 percent on state expenditures for compliance checks in all 7 years. In all penalty categories, greater percentages of the states reported reduced use of these penalties between 2011 and 2017 than reported increased use.

### **Comment**

The data reveal a wide range of activity in the areas studied in the survey, although the activities vary in scope and intensity from state to state. Clearly, all states have areas of strength and areas where improvements can be realized. A recurrent theme is the inadequacy of some state data systems to respond to the data requested in the survey, especially for local law enforcement and statewide expenditures. Accurate and complete data are essential both for describing current activities to prevent underage drinking and for monitoring progress in future state surveys.

### **Survey Instrument**

The survey instrument consists of approximately 90 questions divided into 4 sections consistent with the topics and performance measures described in the STOP Act.

1. Enforcement of underage drinking laws, including:
  - a. The extent to which states implement checks of retail outlets to assess compliance with laws prohibiting the sale of alcohol to minors and the results of these checks.
  - b. The extent to which the states implement other strategies for underage drinking enforcement, including MIP, Cops in Shops, shoulder tap operations, party patrol operations or programs, and underage alcohol-related fatality investigations.
  - c. Sanctions imposed for violations (fines, license suspensions, license revocations).
2. Underage drinking prevention programs targeted to youth, parents, and caregivers, including data on the number of people served by these programs and whether these programs are evaluated.

3. State interagency collaborations to implement prevention programs, best-practice standards, and collaborations with tribal governments.
4. State funds spent in the following categories, along with descriptions of any dedicated fees, taxes, or fines used to raise funds:
  - a. Compliance checks and provisions for technology to aid in detecting false IDs at retail outlets.
  - b. Checkpoints and saturation patrols.
  - c. Community-based, school-based, and higher education-based programs.
  - d. Programs that target youth within the juvenile justice and child welfare systems.
  - e. Other state efforts as deemed appropriate.

Survey questions are structured to allow states maximum flexibility in deciding which initiatives to describe and how to describe them. Open-ended questions are used whenever possible to allow states to “speak with their own voices.” The survey offers the opportunity to respond “Don’t Know” or “Data Not Available” in those instances where requested information is not accessible.

### Methods

State governors and the District of Columbia’s mayor were sent letters requesting confirmation of a designated representative to serve as the contact and be responsible for completing the survey. For more than two-thirds of the states, this representative was the same person designated for the 2016 survey. Nearly one-third of the survey contacts were new to the responsibility, due to retirement and other personnel changes within state agencies. Designated contacts are typically staff members from state substance abuse program agencies or state alcohol beverage control (ABC) agencies.

The survey was uploaded to a web-based platform in four segments, and designated contacts were sent a link to this platform. They were also sent a copy of the report compiled from their responses to the 2016 survey, so that data that remained unchanged between years could be readily copied into the web survey. Contacts were given technical instructions for filling out the survey.

The online survey was available for completion by the states beginning in June 2017. The CDM Group, Inc., a SAMHSA contractor, provided both telephone and online technical support to state agency staff while the survey was in the field. Representatives from the National Liquor Law Enforcement Association provided review and support for any questions pertaining specifically to enforcement.

As with all STOP Act State Surveys since 2011, responses were received from all states—a 100 percent response rate. Each state’s response was reviewed by senior staff members, who made inquiries when necessary about apparent omissions, ambiguities, or other content issues. Copyedited reports of the survey responses were returned to each state by e-mail. States either approved the proposed copyedits or provided their own changes, and also provided any requested clarifications.

## Results

The individual State Reports provide a full presentation of the survey data submitted by each state (see [stopalcoholabuse.gov](http://stopalcoholabuse.gov)). This Results section provides summary information about all variables amenable to quantitative analysis. It is important to keep in mind that each state determined how much information to provide, and that the range of information respondents provided was highly variable.

The results are grouped under five broad headings:

1. Enforcement Programs
2. Programs Targeted to Youth, Parents, and Caregivers
3. Collaborations, Planning, and Reports
4. State Expenditures on the Prevention of Underage Drinking
5. Comparison of Enforcement Data: 2011 to 2017

The final section, Comparison of Enforcement Data: 2011 to 2017, provides a comparison of state survey data collected between 2011 and 2017 for selected activities. It should be noted that not all states reported data for all years. This section should be viewed with these cautions in mind.

In all cases, where numerical estimates are reported, the reporting period is the most recent 12-month period for which complete data were available to the state. Average values are reported as medians. The median is the numerical value separating the higher half of a sample from the lower half and is the best representation of the “average” value when, as is often the case with the state survey responses, the data include outliers (a data point that is widely separated from the main cluster of data points in a dataset).

### **Enforcement Programs**

The STOP Act State Survey requested enforcement data<sup>21</sup> in four areas:

1. State enforcement efforts to prevent underage access to alcohol at retail outlets, such as compliance checks and shoulder tap programs.
2. Local enforcement efforts to prevent underage access to alcohol.
3. Enforcement of selected state laws aimed at deterring underage drinking such as MIP laws and laws prohibiting Internet sales and direct shipment of alcohol.
4. Penalties (fines, license suspensions, and revocations) imposed on retail establishments for violation of these laws.

Exhibit III.1 shows the percentage of states that collect data on compliance checks, MIP charges, and penalties levied against retail establishments for furnishing alcohol to minors. As illustrated in Exhibit III.1, a majority of states collect data on state compliance checks, MIP charges, and penalties imposed on retail establishments. However, the number of states that collect data on local enforcement efforts is limited. Thus, it is likely that the enforcement statistics provided here underestimate the total amount of underage drinking enforcement occurring in the states.

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<sup>21</sup> For charts showing individual state responses to all enforcement program questions on the 2017 survey, contact [underagedrinking@samhsa.gov](mailto:underagedrinking@samhsa.gov).

### Exhibit III.1: Percentage of Jurisdictions that Reported Enforcement Data Collection at the State and Local Levels

	State collects data on compliance checks		State collects data on MIP arrests/citations	State collects data on MIP, including arrests/citations by local law enforcement agencies	State collects data on penalties imposed on retail establishments		
	State conducted	Locally conducted			Fines	License suspensions	License revocations
Percentage	71	24	67	27	75	71	73

Source: STOP Act State Survey, 2017

#### Compliance Checks

Compliance checks (or decoy operations) are defined as those enforcement actions in which trained underage (or apparently underage) operatives (“decoys”), working with law enforcement officials, enter retail alcohol outlets and attempt to purchase alcohol. States were asked to provide an estimate of the total number of retail licensees in their state so that the percentage of licensees checked annually could be measured. A median of 19 percent of licensed establishments are checked across all 34 states that conduct compliance checks and collect associated data.<sup>22</sup>

Exhibit III.2 provides a state-by-state picture of the percentage of licensees checked. Fifty-six percent of those states conducting checks tested 20 percent or fewer of their licensees, indicating that checking is generally not comprehensive. Nearly all (94 percent) of the states reported that checks were conducted at both on- and off-premises establishments.

In addition to questions about the number of state checks and the number of outlets that failed the checks, states were asked whether they conduct random compliance checks. Of the 36 states that conduct and collect data on compliance checks, 75 percent indicated that some or all of the checks conducted were done randomly, as opposed to being conducted in response to a complaint or as part of a convenience sample. For 56 percent of the states that report conducting random checks, all state checks were conducted randomly.

Exhibit III.3 compares the number and failure rates of all state compliance checks, those state checks conducted randomly, and local compliance checks. Twelve states also collected data on compliance checks conducted by local law enforcement. Eight states report conducting and collecting data for *both* state and local compliance checks; 40 states conduct and collect data on either state or local compliance checks; and 11 states conduct neither state nor local checks. As shown in Exhibit III.3, the number of licensees checked and licensee failures varies widely.

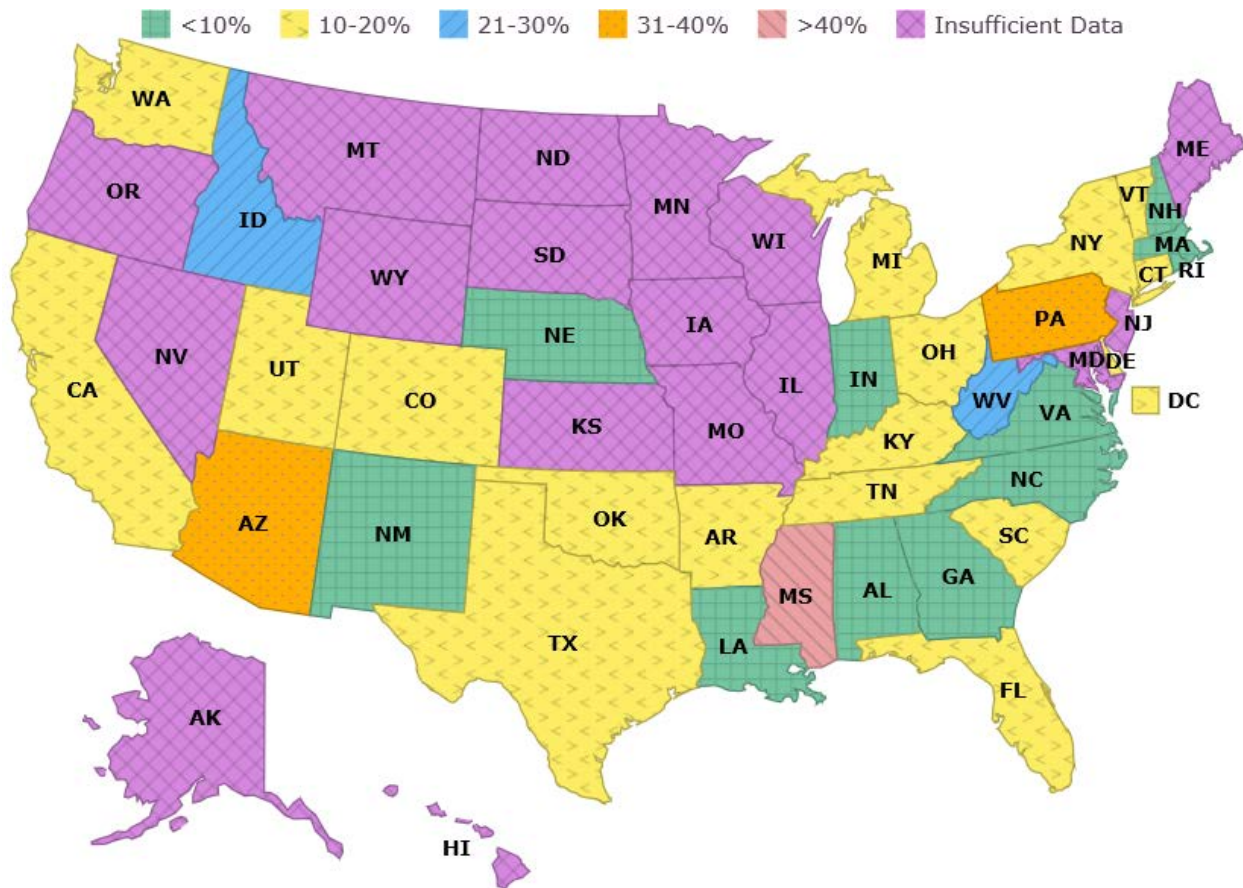
Exhibits III.4 and III.5 provide state-by-state licensee failure rates for all compliance checks conducted by state and local agencies based on data reported by the states. Most state-level checks report failure rates of 20 percent or less, with five states reporting higher rates.

<sup>22</sup> Two states that conduct compliance checks and collect data on these checks did not provide sufficient information to calculate the percentage of all licenses checked.





### Exhibit III.4: State Compliance Checks Failure Rate



Source: STOP Act State Survey, 2017

Exhibit III.5 highlights the lack of data on local compliance checks for most states. Only eight states reported any data, and 88 percent of those states reported failure rates of 20 percent or less.

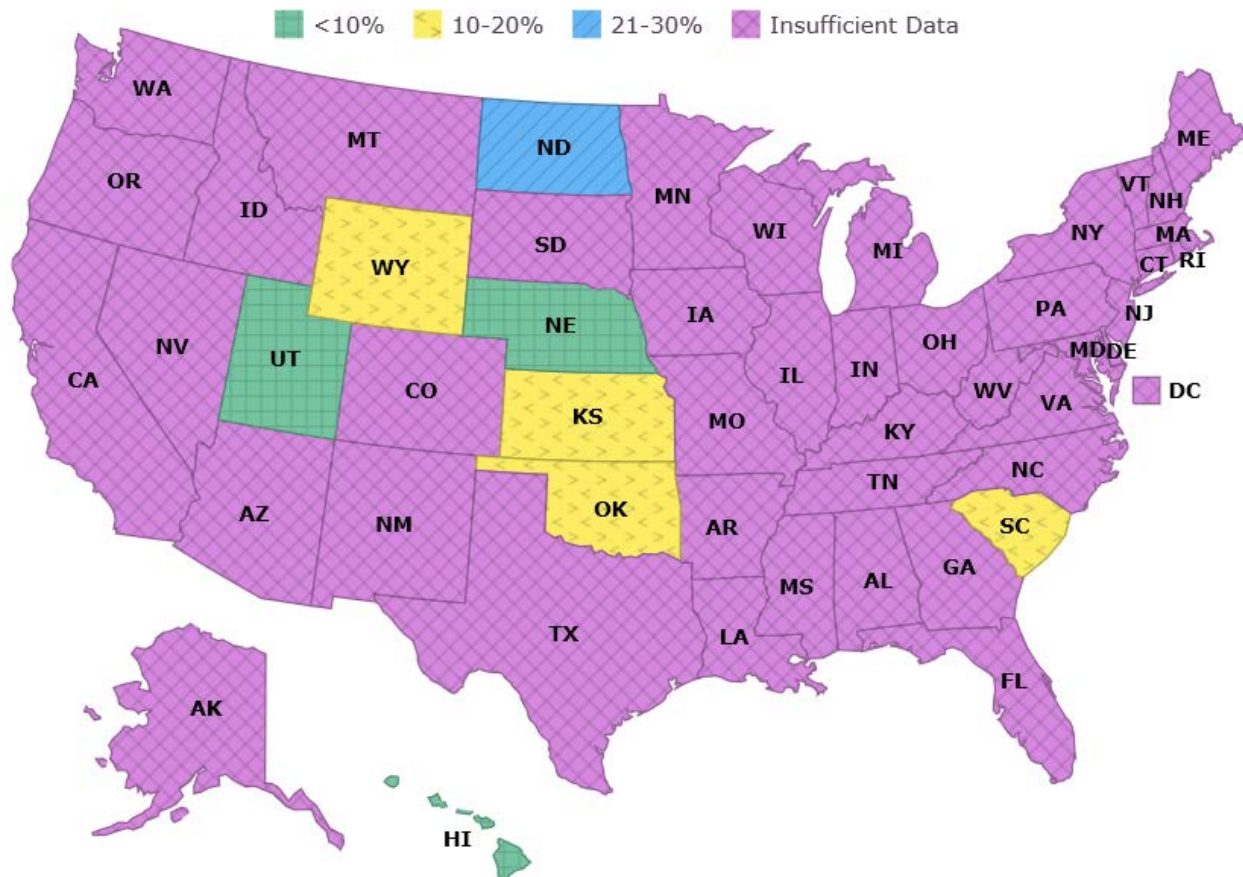
As noted above, there is great variation among the states in the percentage of the total number of outlets checked during this period. Some states indicated that they make multiple checks on single outlets during the year in question, and this may be true of other states. Compliance check protocols also vary by state. For example, states use differing procedures and requirements for choosing underage decoys (see Compliance Check Protocols, above).

States may also conduct compliance checks randomly in response to complaints or as a result of a previous compliance check failure. Hence, differences in compliance check protocols may affect the number of outlets checked, the frequency of checks at a particular establishment, and the failure rates.

#### Other Enforcement Strategies

States were asked to report on four other state and local strategies to enforce underage drinking laws: Cops in Shops, shoulder tap operations, party patrol operations or programs, and underage alcohol-related fatality investigations. Definitions of these enforcement strategies follow.

### Exhibit III.5: Local Compliance Checks Failure Rate



Source: STOP Act State Survey, 2017

An expanded discussion of these strategies is found in the previous section on enforcement:

1. ***Cops in Shops:*** A well-publicized enforcement effort in which undercover law enforcement officers are placed in retail alcohol outlets.
2. ***Shoulder tap operations:*** Trained young people (decoys) approach individuals outside of retail alcohol outlets and ask them to make an alcohol purchase.
3. ***Party patrol operations or programs:*** Operations that identify underage drinking parties, make arrests and issue citations, and safely disperse participants.
4. ***Underage alcohol-related fatality investigations:*** Investigations to determine the source of alcohol ingested by fatally injured minors.

As shown in Exhibit III.6, the most common enforcement activities at both state and local levels are party patrol operations or programs and underage alcohol-related fatality investigations. Given that much of the enforcement of laws pertaining to MIP occurs at the local level, it is not surprising that more states report implementation of some related programs (shoulder tap and party patrol operations) by local law enforcement than at the state level.

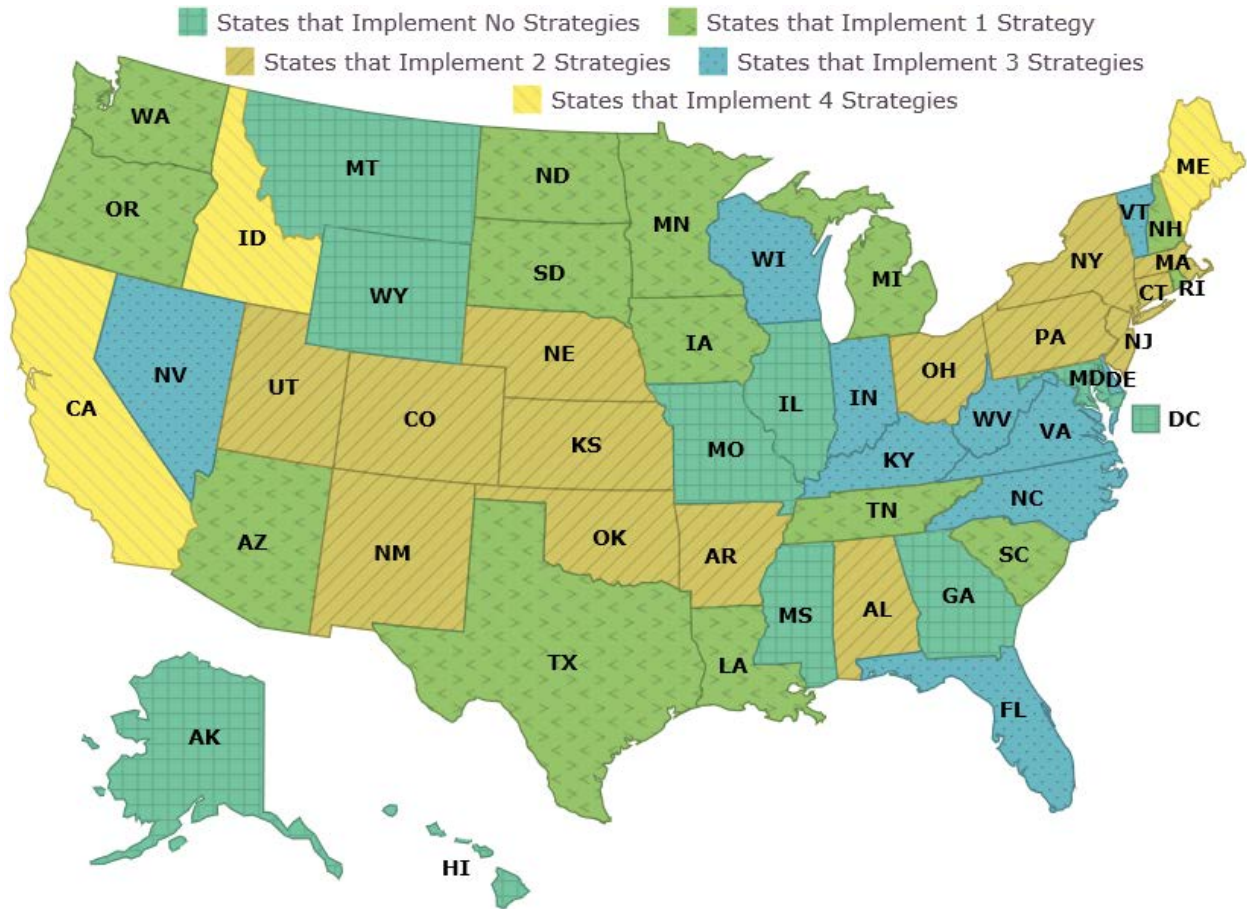
Exhibit III.7 displays states that implement one to four of the strategies listed in Exhibit III.6. Exhibit III.8 displays states in which local law enforcement agencies implement one to four of the strategies.

**Exhibit III.6: Implementation of Other Enforcement Strategies**

State enforcement: Percentage of states that implement:				Local enforcement: Percentage of states in which localities implement:			
Cops in Shops	Shoulder tap operations	Party patrol operations or programs	Underage alcohol related fatality investigations	Cops in Shops	Shoulder tap operations	Party patrol operations or programs	Underage alcohol related fatality investigations
31	20	45	69	29	37	55	49

Source: STOP Act State Survey, 2017

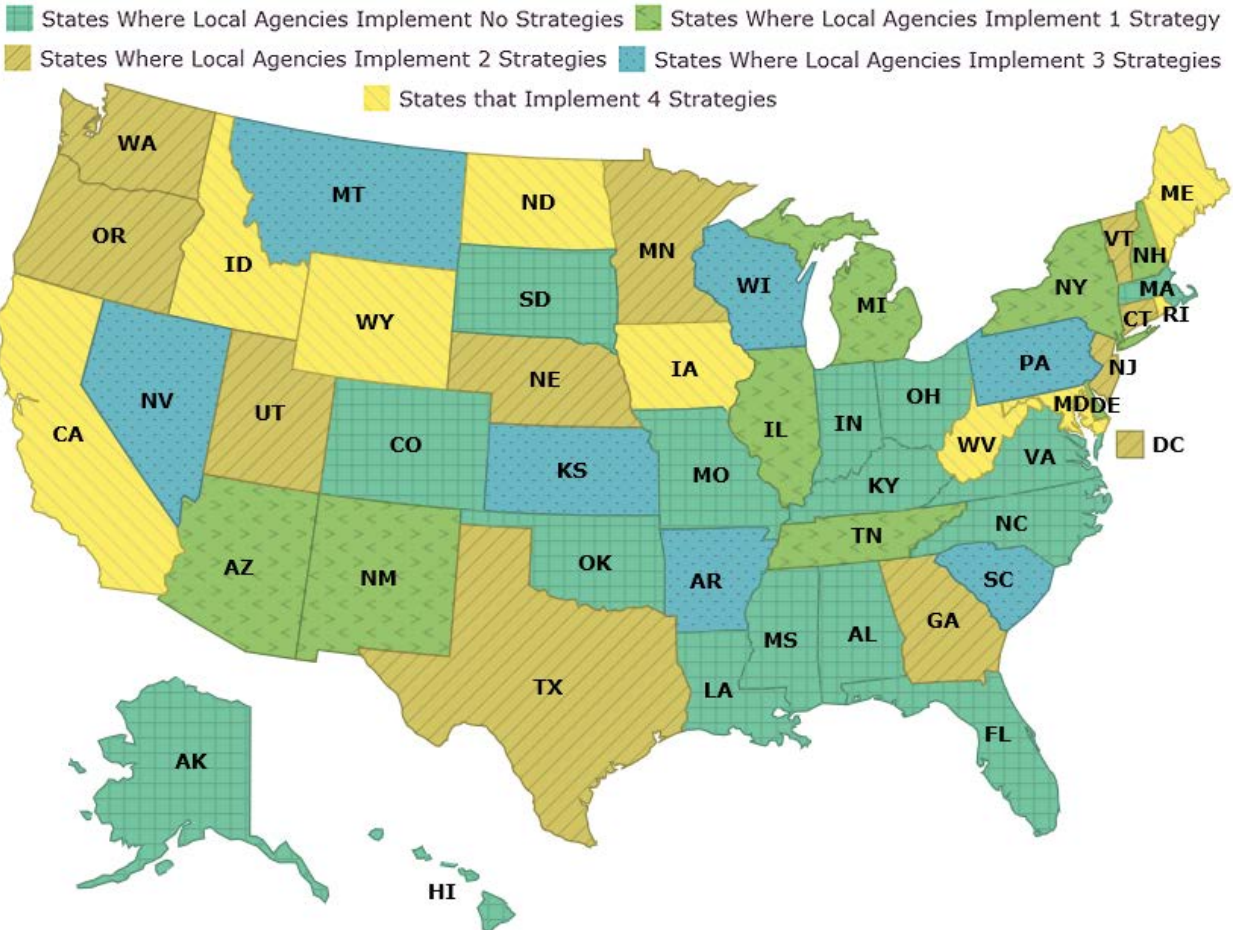
**Exhibit III.7: Number of Enforcement Strategies Implemented by States**



Source: STOP Act State Survey, 2017

In addition, all states regulate or prohibit direct sales and direct shipment of alcohol from producers to consumers, typically through Internet orders and delivery by common carriers. (These laws do not address home delivery or Internet sales by retailers.) States were asked whether they have a program to investigate and enforce direct-sales or direct-shipment laws and whether these laws are also enforced by local law enforcement agencies. Exhibit III.9 shows that 57 percent of the states report having direct-shipment enforcement programs, but only 8 percent report that local law enforcement enforces these laws.

### Exhibit III.8: Number of Enforcement Strategies Implemented by Local Law Enforcement Agencies



Source: STOP Act State Survey, 2017

### Exhibit III.9: Enforcement of Direct-Shipment Laws

State has a program to investigate and enforce direct sales/shipment laws (%)		Laws are also enforced by local law enforcement agencies (%)
Yes	57	8
No	33	29
Don't know/No answer	10	63

Source: STOP Act State Survey, 2017

## Sanctions Imposed on Retail Establishments for Violations

The State Survey requested information on penalties imposed on retail establishments for furnishing to minors (see Exhibit III.10–III.14; note that the “*n*” figures in these exhibits differ from the total number of states that answered “yes” to collecting data on fines, suspensions, and revocations, because some states provided incomplete data).

As would be expected, fines are the most common sanction, imposed about eight times as often as suspensions. However, revocations are rare. Of the states that collect data on revocations, 72 percent revoked one or no licenses. Eighty-one percent of the states revoked fewer than six licenses.

**Exhibit III.10: Fines Imposed on Retail Establishments for Furnishing to Minors**

Number of outlets fined for furnishing (n 30)		Total amount of fines in dollars across all licensees (n 29)
Median for those that collect data	199	\$164,205
Minimum	6	\$2,100
Maximum	1,788	\$6,403,441

Source: STOP Act State Survey, 2017

**Exhibit III.11: Lowest and Highest Fines Imposed on Retail Establishments for Furnishing to Minors**

Lowest fine imposed	Dollar amount of fines across all licenses
Median for those that collect data (n=33)	\$300
Minimum	\$0
Maximum	\$1,800
Highest fine imposed	Dollar amount of fines across all licenses
Median for those that collect data (n=32)	\$2,800
Minimum	\$300
Maximum	\$100,000

Source: STOP Act State Survey, 2017

**Exhibit III.12: License Suspensions Imposed on Retail Establishments for Furnishing to Minors**

Number of outlets suspended for furnishing (n 33)		Total days of suspension across all licensees (n 26)
Median for those that collect data	12	76
Minimum	0	0
Maximum	221	3,675

Source: STOP Act State Survey, 2017

**Exhibit III.13: Shortest and Longest License Suspensions Imposed on Retail Establishments for Furnishing to Minors**

Shortest suspension imposed		Number of days across all licenses
Median for those that collect data (n=31)		3
Minimum		0
Maximum		30
Longest suspension imposed		Number of days across all licenses
Median for those that collect data (n=31)		19
Minimum		0
Maximum		365

Source: STOP Act State Survey, 2017

**Exhibit III.14: License Revocations Imposed on Retail Establishments for Furnishing to Minors**

Number of outlets revoked for furnishing	
Median for those that collect data (n=32)	0*
Minimum	0
Maximum	36

\*The median will be zero if more than half the responses are zero.  
Source: STOP Act State Survey, 2017

The survey asked states to report the lowest and highest fine imposed, and the shortest and longest number of suspension days. Exhibit III.11 through III.14 illustrate great variation among the states in the amount of fines and the length of license suspensions imposed.

Sanctions for furnishing to minors can be put into perspective by considering rates per 100,000 drinking occasions among youth who are 16 to 20 years old. Exhibit III.15 presents these rates for 25 states that collect complete sanctions data (fines, suspensions, and revocations).

**Minor in Possession Offenses**

States were also asked to provide statistics on MIP offenses. As noted earlier, arrest data for MIP offenses provide an index of the enforcement of laws designed to deter underage persons from drinking. Some states reported data that included arrests/citations issued by local law enforcement agencies; others did not.

**Exhibit III.15: Retailer Sanctions for Furnishing to Minors**

Sanctions per 100,000 drinking occasions	
Median for those that collect data (n=25)	8.32
Minimum	0.34
Maximum	29.31

Source: STOP Act State Survey, 2017

The first three rows of Exhibit III.16 present the number of arrests/citations reported by all states that collect such data. These data may not provide an accurate picture of MIP enforcement, because much of it is conducted at the local level and, therefore, is not represented in state data. The last three rows of Exhibit III.16 present data only from those states that collect both state and local data. When only those states that collect local data are considered, the median number of arrests/citations increases by 32 percent, highlighting the importance of local enforcement efforts and data.

To explore the meaning of these data, two indices were calculated for states with both state and local MIP enforcement (Exhibit III.17). The first index compares the rates of MIP arrests/citations with an estimate of yearly drinking occasions among 16- to 20-year-olds.<sup>23</sup> The second index reflects arrests per 100,000 youth in each state who are 16 to 20 years old.

**Sanctions Against Youth vs. Sanctions Against Retailers**

Comparing rates of MIP arrests and rates of retailer sanctions (totals of fines, suspensions, and revocations) highlights enforcement priorities. Sixteen states provided the complete dataset needed for this analysis (Exhibit III.18).

**Exhibit III.16: Number of Minors Found In Possession of (or Having Consumed or Purchased per State Statutes) Alcohol**

	Number of arrests/citations
Median for all states that collect data (n=33)	479
Minimum	23
Maximum	14,457
Median for states that collect both state and local data (n=14)	708
Minimum	63
Maximum	14,457

Source: STOP Act State Survey, 2017

**Exhibit III.17: State and Local Arrests/Citations for Minors in Possession: 16- to 20-Year-Olds**

	Number of arrests/citations	Arrests/Citations per 1,000 drinking occasions	Arrests/Citations per 100,000 population 16 20
Median for those that collect data (n=14)	708	0.44	479
Minimum	63	0.07	73
Maximum	14,457	3.44	3,714

Source: STOP Act State Survey, 2017

<sup>23</sup> This estimate is based on the calculations of Wagenaar and Wolfson (1994). Using *Monitoring the Future* data, they estimated a rate of 90 drinking occasions per 100 youth per month. To maintain consistency of analysis over the years, this formula is used in every year’s survey analysis.



**Exhibit III.18: Ratio of State and Local MIP Arrests to Retailer Sanctions**

	MIP arrests per retailer sanctions
Median for those that collect data (n=16)	2
Minimum	0.09
Maximum	70

Source: STOP Act State Survey, 2017

In most states, MIP arrests greatly outnumber retailer sanctions, indicating that priority is given to individual arrests over enforcement at the retail level. The ratio of MIP arrests to retailer sanctions (indicating a priority on retailer enforcement) was less than one in five states.

### Programs Targeted to Youth, Parents, and Caregivers

States were asked to list general prevention programs that have underage drinking as one objective and are funded or operated directly by the state. The survey provided space for detailed descriptions of up to 10 programs, plus additional space to briefly list any other programs that the states wanted to highlight.

States were also asked:

1. The number of youth, parents, and caregivers served by each program (if the program was aimed at a specific, countable population).
2. Whether the program has been evaluated.
3. Whether an evaluation report is available and where the report can be found.

Specific populations served were defined as follows:

**Youth:** People younger than 21 years old.

**Parents:** People who have primary responsibility for the well-being of a minor (e.g., biological and adoptive parents, grandparents, foster parents, extended family).

**Caregivers:** People who provide services to youth (e.g., teachers, coaches, health and mental healthcare providers, human services and juvenile justice workers).

In addition to program descriptions, states were asked whether they had programs to measure and reduce youth exposure to alcohol advertising and marketing, and best practice standards for selecting or approving underage-drinking programs.

### Program Content

States varied widely in the number of programs described, in part because some states provided detailed information on local variations of some program types (e.g., community coalitions), whereas others described umbrella programs. Many well-known programs were reported, including those focused on life skills, refusal skills, media advocacy, community organizing, and environmental change. Prevention initiatives developed by individual states were also well represented.

As a method for summarizing the types of programs states are implementing, all programs were coded into one of four categories:

1. ***Programs focused on individuals***—Programs designed to impart knowledge, change attitudes and beliefs, or teach skills. Although individual youths or adults (usually parents) are the focus of these programs, the programs are almost always conducted with groups (e.g., classrooms, Boys/Girls Clubs, PTAs, members of a congregation). Also in this category are programs for offenders (MIP, driving while intoxicated [DWI]). Certain kinds of education and skills development were considered part of the environment. These include training for alcohol sellers and servers, health care workers, public safety personnel, and others whose activities affect large numbers of people.
2. ***Programs focused on the environment***—Programs that seek to alter physical, economic, and social environments which may be focused on entire populations (e.g., everyone in a state or community) or a subpopulation (e.g., underage people, youth who drive). The main mechanisms for environmental change include state laws and local ordinances and their enforcement; institutional policies (e.g., enforcement priorities or prosecutorial practice, how alcohol is to be served at public events, carding everyone who looks younger than 35 years old, alcohol screening of all ER injury admissions); and changing norms. These changes are generally designed to decrease physical availability of alcohol (e.g., home delivery bans, retailer compliance checks); raise economic costs (e.g., drink special restrictions, taxation); and limit social availability (e.g., policies that affect the extent to which alcohol and alcohol users are visible in the community, such as banning alcohol in public places and at community events or banning outdoor alcohol advertising).
3. ***Mixed***—Cases where both individual and environmental approaches are a substantive part of the effort. So-called “comprehensive” prevention programs are a relevant example.
4. ***Media campaigns***—Campaigns conducted through television, radio, social media, and websites to provide information about underage drinking, promote social norms that discourage underage drinking, and increase awareness of underage drinking policies, such as social host laws. Media campaigns are often directed to specific audiences, including parents or college students, as well as to the general public.

In total, 282 programs (91 percent of all programs) were described in sufficient detail to allow coding. It should be noted that one state reported a program composed of 226 prevention programs. As there were insufficient details available to code these individually, it was preferable to treat this as one umbrella program coded as “unable to code.”

Results are presented in Exhibit III.19. As shown, programs focused on individuals were nearly three times as common as programs focused on the environment. States tended to favor either individual or environmental approaches in the programs they described, and 50 percent of the states that reported any programs that could be coded focused exclusively on one or the other.

### Numbers Served

States were asked to estimate the number of youths, parents, and caregivers served by programs aimed at specific populations. These data were incomplete, with 53 percent of the states ( $n=27$ )

providing data for at least one program for youths served; 20 percent ( $n=10$ ) for parents served; and 18 percent ( $n=9$ ) for caregivers served. These data may be difficult for certain types of programs to estimate. In particular, the target populations for programs focused on the environment may be entire populations or subpopulations. Estimating the actual numbers reached is therefore problematic. Exhibit III.20 provides the reported number of youths, parents, and caregivers served across all states that reported data.

**Exhibit III.19: Types of Programs Implemented by the States**

Program category	Percentage of programs implemented
Focused on individuals	53
Focused on the environment	19
Mixed focus	22
Media campaigns	6

Source: STOP Act State Survey, 2017

**Exhibit III.20: Reported Numbers of Youths, Parents, and Caregivers Served**

	Youths served	Parents served	Caregivers served
Median	617	0	0
Minimum	0	0	0
Maximum*	63,1716	168,575,261	982,831

\*Maximum numbers served are high in those instances where states reported that a program served the entire state population, or in those instances in which individuals may be served by the program multiple times.

Source: STOP Act State Survey, 2017

**Evaluation Data**

For each program, states were asked whether the program has been evaluated and whether an evaluation report is available. Summary data for these questions appear in Exhibit III.21. Clearly, states vary widely in their emphasis on evaluation.

**Exhibit III.21: Evaluation of Underage Drinking–Specific Programs**

	Percentage of state programs evaluated	Percentage of evaluated programs with reports available
Median	50	33
Minimum	0	0
Maximum	100	100

Source: STOP Act State Survey, 2017

## Programs to Measure and Reduce Youth Exposure to Alcohol Advertising and Marketing

States were asked whether they have programs to measure or reduce youth exposure to alcohol advertising and marketing. Thirty-nine percent ( $n=20$ ) of the states reported they had such programs, which tend to implement four approaches:

1. Environmental scans to assess the degree of youth exposure to alcohol advertising.
2. Counter-advertising initiatives.
3. Eliminating environmental advertising aimed at youth.
4. Social marketing.

## Best Practice Standards

States were asked whether they have adopted or developed best practice standards for underage drinking prevention programs and, if so, the type of agency or organization that established the standards. Ninety percent ( $n=46$ ) reported they had best practice standards. As shown in Exhibit III.22, state agencies play a significant role in their establishment, followed by federal agencies. Seventy percent of those states with best practice standards reported that more than one type of agency was responsible for their establishment. Nearly two thirds (65 percent) included SAMHSA and CSAP in their list of agencies.

**Exhibit III.22: Agencies Establishing Best Standards**

Type of agency establishing best practice standards	Percentage of states adhering to best practice standards
Federal ( $n=37$ )	80
State ( $n=37$ )	80
Nongovernmental ( $n=8$ )	17
Other ( $n=8$ )	17

Source: STOP Act State Survey, 2017

## Collaborations, Planning, and Reports

The STOP Act Survey included two questions about collaborations. The first question asked whether states collaborated on underage drinking issues with federally recognized tribal governments (if any). Fifty-one percent ( $n=26$ ) said they did collaborate, 25 percent said they did not collaborate, and the remainder reported no federally recognized tribes in their states.

The second question asked whether states had a state-level interagency body or committee to coordinate or address underage drinking prevention activities. Seventy-six percent of the states reported that such a committee exists, although the composition of the committee varied somewhat from state to state. Most states' interagency committees included a variety of state agencies directly involved in underage drinking prevention policy implementation and enforcement, as well as educational and treatment program development and oversight. These include the states' departments of health and human services and alcohol beverage control, their substance abuse agency, and their state police/highway patrol.

Of interest is the extent to which the committees included representatives from the governor’s office, state legislature, and office of the attorney general, given that they are so critical in setting priorities, providing funding, and generating political and public support. Exhibit III.23 shows that 14 percent of the states with a committee included the governor, 8 percent included a legislative representative, and about one in three included an attorney general.

Exhibit III.24 shows the extent to which the interagency committee included relevant entities and constituencies outside of state government. Forty-three percent of the states with interagency committees included college/university administrations, campus life departments, or campus police, and 38 percent included community coalitions or concerned citizens. About 1 in 3 states included local law enforcement, and about 1 in 10 included youth.

States were asked whether they had prepared a plan for preventing underage drinking or issued a report on underage drinking in the past 3 years. Fifty percent of the states had prepared a plan, and 54 percent had issued a report. The majority of states provided a source for obtaining the plans or reports (see individual state reports).

**Exhibit III.23: Composition of the Interagency Group—  
State Government Entities**

	Office of the Governor	Legislature	Attorney General
Percentage of states with a committee (n=37)	14	8	30

Source: STOP Act State Survey, 2017

**Exhibit III.24: Composition of the Interagency Group—Other Entities**

	Local law enforcement	College/University administration, campus life department, campus police	Community coalitions/ Concerned citizens	Youth
Percentage of states with a committee (n=37)	30	43	38	11

Source: STOP Act State Survey, 2017

### State Expenditures on the Prevention of Underage Drinking<sup>24</sup>

States were asked to estimate state expenditures for two categories of enforcement activities and five types of programs targeted to youths, parents, and caregivers. Exhibit III.25 provides the data in \$1,000 units reported for the enforcement activities, program activities, and an “other” category. An entry of zero in the “Minimum reported” row means that at least one state that maintains data reported no expenditures in that category.

The largest expenditure category is for community-based programs, followed by K–12 school programs. The median of expenditures for programs targeted to youth, parents, and caregivers (\$98,000) is 23 times that for all enforcement activities (median = \$4,336), and the total dollar

<sup>24</sup> The state survey asks about expenditures only from state budget sources. Federal block grants and other federal funds make up approximately 80 percent of state substance abuse prevention expenditures.

amount expended for these nonenforcement programs (approximately \$120.3 million) is 21 times the total dollar amount spent on enforcement (approximately \$5.8 million).

States were also asked whether funds dedicated to underage drinking are derived from taxes, fines, and fees. Eighty-eight percent of the states provided data for these questions. The use of these funding sources for underage-drinking-prevention activities is limited (see Exhibit III.26).

**Exhibit III.25: 12-Month Expenditures\* (in thousands) for Enforcement Activities; Programs Targeted to Youths, Parents, and Caregivers; and Other Programs†**

	Enforcement activities		Programs targeted to youths, parents, and caregivers					Other programs
	Compliance checks	Checkpoints and saturation patrols	Community based programs	K-12 programs	College/University programs	Juvenile justice system programs	Child welfare system programs	
<b>Number of states providing data</b>	13	9	29	19	14	10	9	11
<b>Median expenditure*</b>	\$18	\$0	\$335	\$180	\$31	\$50	\$0	\$160
<b>Minimum reported</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Maximum reported</b>	\$285	\$4,607	\$43,129	\$38,232	\$480	\$791	\$147	\$2,500
<b>Percentage of states providing data that invest in this category</b>	62	44	76	58	71	50	33	64

\*The median is zero if more than half the responses are zero.

†These data must be viewed cautiously. Response rates ranged from 33 to 76 percent. Thus, the extent to which some of these data reflect national trends is unclear.

Source: STOP Act State Survey, 2017

**Exhibit III.26: Sources of Funds Dedicated to Underage Drinking Prevention**

Source	Number of states providing data	Percentage reporting yes*
Taxes	43	21
Fines	44	23
Fees	42	19

\*Percentages reflect only those states that provided data for these questions.

Source: STOP Act State Survey, 2017

## Comparison of Enforcement Data: 2011 to 2017

The STOP Act State Survey is now in its seventh year of data collection. Exhibits III.27 to III.31 offer a snapshot of the results for 2011 to 2017 for several key components of the enforcement data. Caution should be used in interpreting these data.

Data collection and reporting vary greatly from year to year among the states, so it is not possible to compare all states over these 7 years. Fewer than half the states provided information in all 7 years for all datasets.<sup>25</sup>

Twenty-two percent of the states provided MIP data over all 7 years. As shown in Exhibit III.27, of these states, 27 percent reported a larger number of MIP arrests in 2017 than in 2011, and 73 percent reported a decrease in the number of arrests. Increases and decreases in the number of arrests were not continuous over the 7 years. For all the states, there was some variation across the years.

Exhibit III.28 shows that 49 percent of the states provided state compliance check data for all 7 years. Fifty-six percent of the states reported an increased number of compliance checks between 2011 and 2017, and 44 percent reporting a decreased number. As with MIP arrests, increases and decreases were not continuous across the years; 96 percent of the states reported some fluctuation.<sup>26</sup>

Exhibit III.29–III.31 describe state reporting on penalties for retail establishments between 2011 and 2017. In all penalty categories, larger percentages of the states reported reduced use of these penalties than reported increased use. Given that revocations are relatively infrequent, it is not surprising that 38 percent of all states reporting showed no change between 2011 and 2017. Given the great variation in reporting rates for all 7 years (18 percent to 33 percent), these data should be viewed with caution.

As noted previously, these figures should be viewed with the caveat that numbers reported are impacted by variations in the availability and collection of data. Exhibits III.32 and III.33 demonstrate the variability in data collection on key enforcement variables by all states between 2011 and 2017. Lower percentages of states reported that they collected state and local compliance check and MIP arrest data in the 2017 survey than in the 2011 survey.

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<sup>25</sup> For detailed charts of all state enforcement data reported from 2011 to 2017, contact [underageddrinking@samhsa.gov](mailto:underageddrinking@samhsa.gov).

<sup>26</sup> In previous reports, a comparison of local compliance check data was included. As only three states reported these data for all 7 years (2011–2017), a meaningful comparison is not possible. Similarly, a comparison of state expenditures for compliance checks is not included, as only two states have reported these data for all 7 years.

**Exhibit III.27: Minors in Possession 2011–2017**

	Number	Percentage
<i>States reporting in all 7 years (n=11)</i>		
States showing increased arrests across all 7 years	0	0
States showing decreased arrests across all 7 years	0	0
States showing variation across all 7 years, but increased number of MIP arrests between 2011 and 2017	3	27
States showing variation across all 7 years, but decreased number of MIP arrests between 2011 and 2017	8	73
<i>States not reporting in all 7 years (n=40)</i>		

Source: STOP Act State Survey, 2011–2017

**Exhibit III.28: State Compliance Checks 2011–2017**

	Number	Percentage
<i>States reporting in all 7 years (n=25)</i>		
States showing increasing number of compliance checks across all 7 years	1	4
States showing decreasing number of compliance checks across all 7 years	0	0
States showing variation across all 7 years, but increased number of compliance checks between 2011 and 2017	13	52
States showing variation across all 7 years, but decreased number of compliance checks between 2011 and 2017	11	44
<i>States not reporting in all 7 years (n=26)</i>		

Source: STOP Act State Survey, 2011–2017

**Exhibit III.29: Fines on Retail Establishments 2011–2017**

	Fines: Total number	Fines: Total dollar amount
	<i>States reporting in all 7 years (n=11)</i>	<i>States reporting in all 7 years (n=9)</i>
States showing consistent increases over all 7 years	0% (n=0)	0% (n=0)
States showing consistent decreases over all 7 years	0% (n=0)	0% (n=0)
States showing variation across all 7 years, but increases between 2011 and 2017	36% (n=4)	44% (n=4)
States showing variation across all 7 years, but decreases between 2011 and 2017	64% (n=7)	56% (n=5)

Source: STOP Act State Survey, 2011–2017



**Exhibit III.30: License Suspensions of Retail Establishments 2011–2017**

	Suspensions: Total number	Suspensions: Total number of days
	States reporting in all 7 years (n=17)	States reporting in all 7 years (n=9)
States showing consistent increases over all 7 years	0% (n=0)	0% (n=0)
States showing consistent decreases over all 7 years	0% (n=0)	0% (n=0)
States showing variation across all 7 years, but increases between 2011 and 2017	29% (n=5)	11% (n=1)
States showing variation across all 7 years, but decreases between 2011 and 2017	71% (n=12)	89% (n=8)

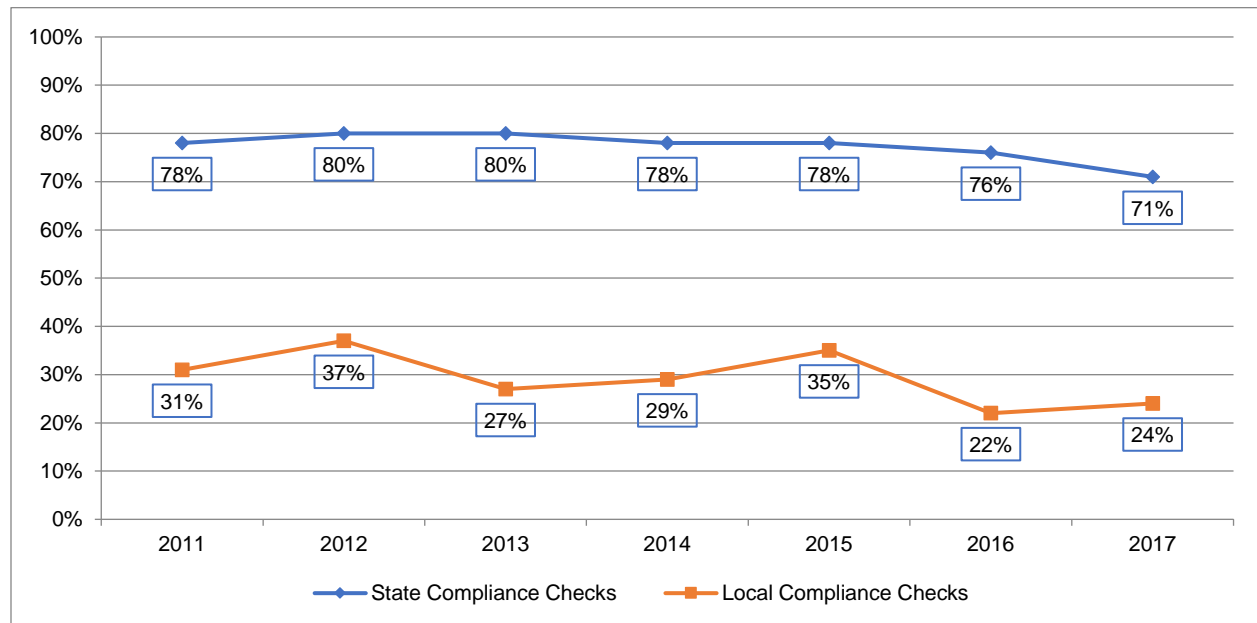
Source: STOP Act State Survey, 2011–2017

**Exhibit III.31: Revocations of Retail Establishment Licenses 2011–2017**

	Revocations: Total number
	States reporting in all 7 years (n=16)
States showing consistent increases over all 7 years	0% (n=0)
States showing consistent decreases over all 7 years	0% (n=0)
States showing variation across all 7 years, but 2011 and 2017 were equal	38% (n=6)
States showing variation across all 7 years, but increases between 2011 and 2017	19% (n=3)
States showing variation across all 7 years, but decreases between 2011 and 2017	44% (n=7)

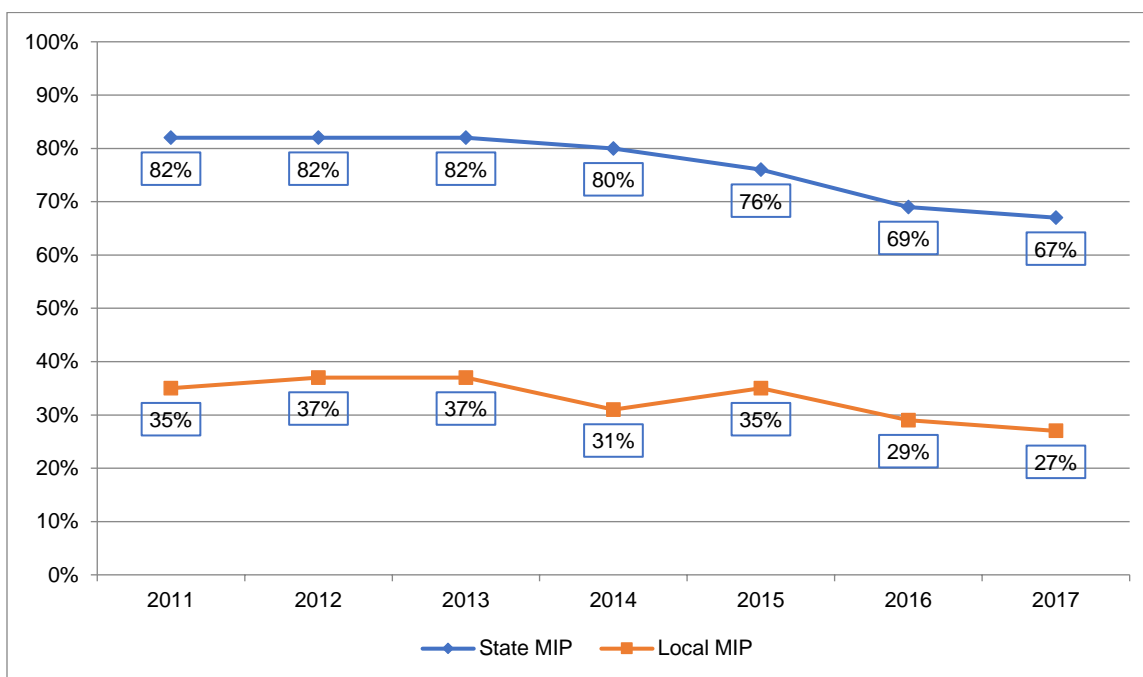
Source: STOP Act State Survey, 2011–2017

**Exhibit III.32: State and Local Compliance Checks: Percentage of States Collecting Data 2011–2017**



Source: STOP Act State Survey, 2011–2017

**Exhibit III.33: State and Local Minor in Possession Arrests:  
Percentage of States Collecting Data 2011–2017**



Source: STOP Act State Survey, 2011–2017

## Concluding Observations

A key conclusion to be drawn from the STOP Act State Survey is that the states have demonstrated a commitment to the reduction of underage drinking and its consequences. This commitment is evident in the fact that all states completed the survey, reported numerous program activities, and in many cases provided substantial detail about those activities (see individual state summaries).

Completion of the lengthy survey required the cooperation of multiple state agencies, including those charged with enforcement of underage drinking laws and policies and those involved in prevention of underage consumption. The fact that the survey has had a 100 percent response rate over its 7-year existence is evidence of the seriousness with which the task of preventing underage drinking is taken by the states.

In 2017, this commitment was further highlighted by the 100 percent response rate to the 2017 survey, despite the fact that nearly one-third of the state survey contacts were new to completion of this survey and had a relatively short period of time to become familiar with the process.

Although data provided by the state survey are informative and useful, it should be noted that enforcement activities appear highly variable across the states. Compliance checks and other enforcement activities related to furnishing (Cops in Shops, shoulder tap operations, underage alcohol-related fatality investigations, and enforcement of direct-shipment laws) are fairly widely

implemented, although not necessarily at both the state and local levels. However, the total number of checks is modest. Fifty-six percent of those states conducting checks test 20 percent or fewer of their licensees. Sanctions for furnishing are predominantly fines, which are eight times more common than suspensions. Revocations are extremely rare; 72 percent of the states revoked one or no licenses.

As demonstrated in Exhibit III.32 and III.33, some of the variability found in the enforcement data may be due as much to data unavailability as to whether the activities were actually conducted. The number of states that collect data on local enforcement efforts is limited. Given that much of the enforcement of laws on furnishing minors and MIP occurs at the local level, it is likely that the enforcement statistics reported here actually underestimate the total amount of underage drinking enforcement occurring in the states. Regular and complete collection of both state and local enforcement data is critical to building an accurate picture of the national effort to prevent underage drinking.

Availability of funding for both enforcement and prevention program activities may also play a role in the types of activities conducted and data reported. For example, the termination of discretionary state grants from the Enforcing Underage Drinking Laws (EUDL) program through the Office of Juvenile Justice and Delinquency Prevention after FY 2011 was cited by some states as having an impact on their efforts to prevent underage drinking. The longer-term impact of this loss of funding remains to be seen.



## Chapter IV: State Performance Measures

This chapter shows how the states compare to national averages for six key measures:

1. Percentage of 12- to 20-year-olds who used alcohol in the last month.
2. Percentage of 12- to 20-year-olds who binge drank alcohol in the last month.
3. Percentage of 12- to 17-year-olds who perceive great risk from drinking five or more alcoholic beverages once or twice a week.
4. Percentage of 12- to 17-year-olds meeting the criteria for a DSM-IV<sup>27</sup> alcohol use disorder in the past year.
5. Percentage of 12- to 17-year-olds needing but not receiving treatment for an alcohol use disorder at a specialty facility in the past year.
6. Percentage of traffic crash deaths involving a 15- to 20-year-old driver in which that driver had a blood alcohol content of 0.01 or higher.

These measures (except for Measures 3 and 5) have been identified by the ICCPUD as significant for purposes of evaluating progress in underage drinking prevention in the *2018 Report to Congress on the Prevention and Reduction of Underage Drinking*. Each measure is based on data collected by the federal government.

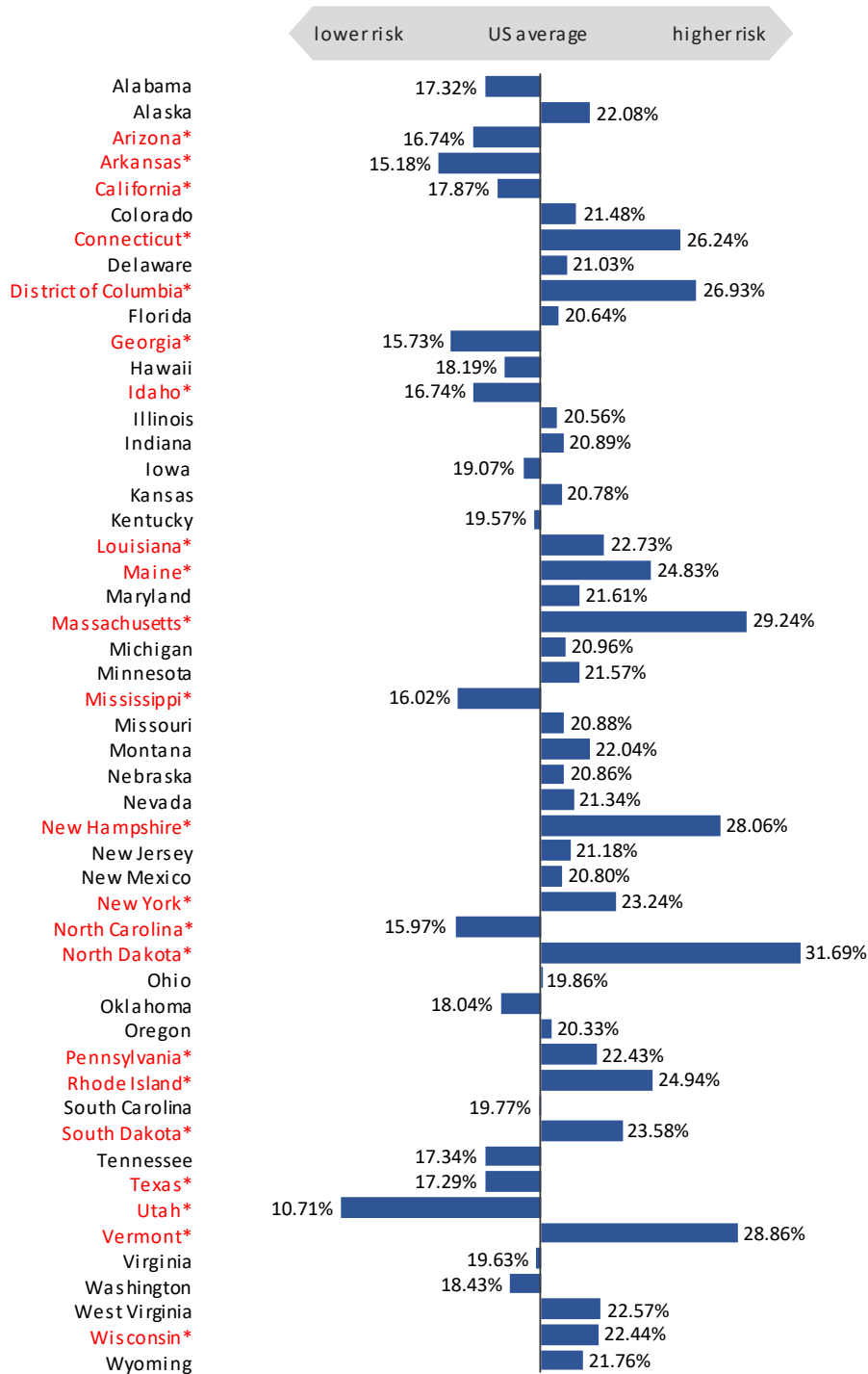
Although Measures 1 through 5 and the State Reports both incorporate state-specific data from SAMHSA's National Survey on Drug Use and Health (NSDUH) on past-month underage alcohol use and binge use, they draw on different years of data. Measures in this chapter are based on data from 2015 and 2016. Profiles in the State Reports average data from the past four years (2013–2016) for greater sample size in order to accurate estimates by age for 12- to 14-year-olds, 15- to 17-year-olds, and 18- to 20-year-olds.

This chapter is not intended to provide a comprehensive ranking of the states' performance in preventing and reducing underage drinking. Caution should be used in interpreting these charts, as a wide variety of factors may influence the data for a given state. In some cases, the total number of cases was low, for example, traffic crash fatalities in low-population states. When available, calculations were performed to determine whether a state's variation from the national average was statistically significant. These six measures may provide a useful starting point for state officials and engaged community members who seek to improve outcomes and wish to engage in planning of effective interventions.

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<sup>27</sup> DSM-IV criteria for alcohol use disorder are used in the NSDUH, which is the source of the data for this performance measure.

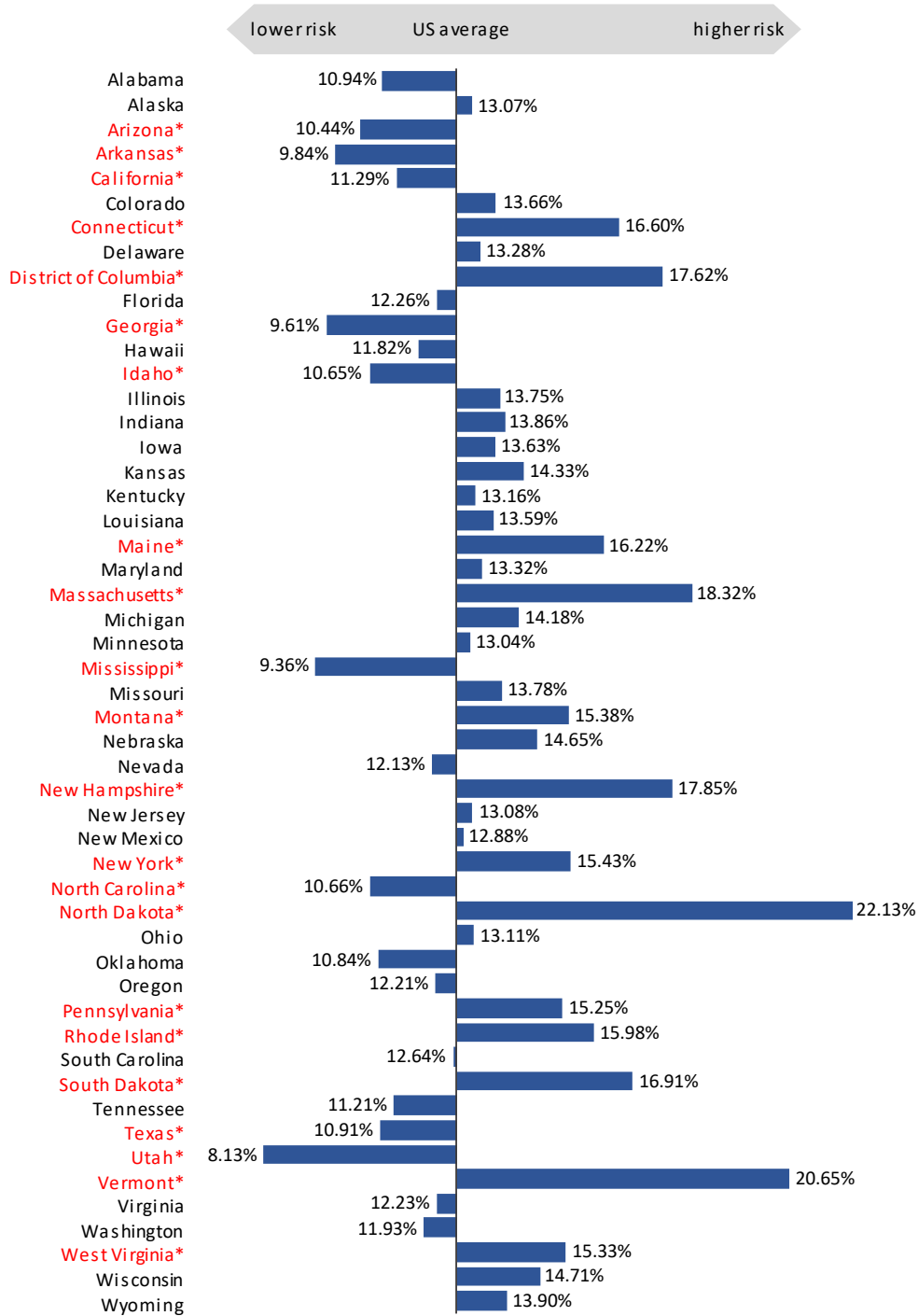
**Measure 1: Percentage of 12- to 20-year-olds who used alcohol in the last month. U.S. average is 19.83%.<sup>28</sup>**



\*statistically significant difference between state and national average at  $p < .05$

<sup>28</sup> Source: 2015-2016 NSDUH: Model-Based Prevalence Estimates (50 States and the District of Columbia), Table 15. Alcohol Use and Binge Alcohol Use in the Past Month among Individuals Aged 12 to 20, by State: Percentages, Annual Averages Based on 2015 and 2016 NSDUHs.

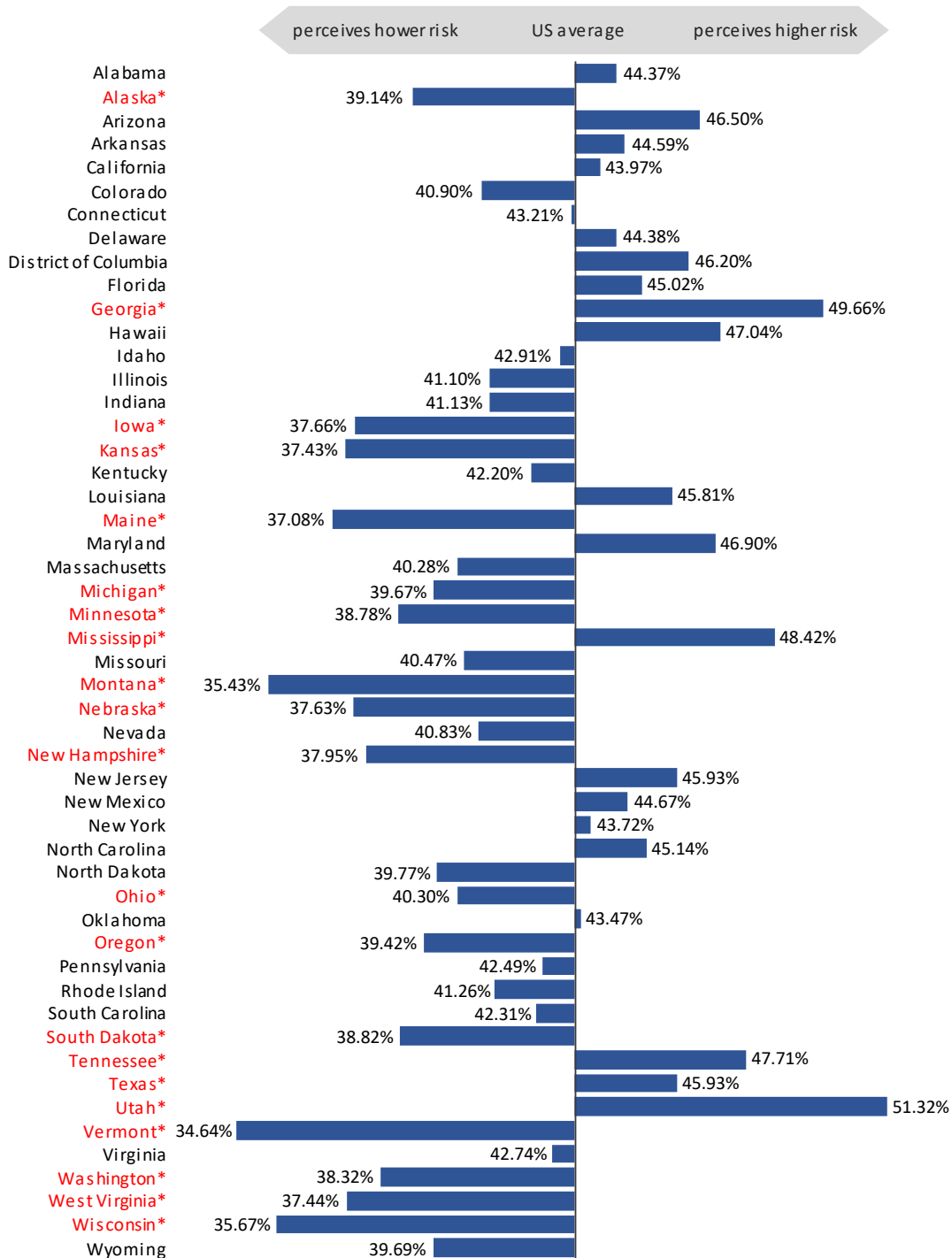
**Measure 2: Percentage of 12- to 20-year-olds who binge-drank (4-5 drinks at one time) in the last month. U.S. average is 12.71%.<sup>29</sup>**



\*statistically significant difference between state and national average at  $p < .05$

<sup>29</sup> Source: 2015-2016 NSDUH: Model-Based Prevalence Estimates (50 States and the District of Columbia), Table 15. Alcohol Use and Binge Alcohol Use in the Past Month among Individuals Aged 12 to 20, by State: Percentages, Annual Averages Based on 2015 and 2016 NSDUHs.

**Measure 3: Percentage of 12- to 17-year-olds who perceive drinking 5+ alcoholic beverages once or twice a week as great risk.<sup>30</sup> U.S. average is 43.30%.**

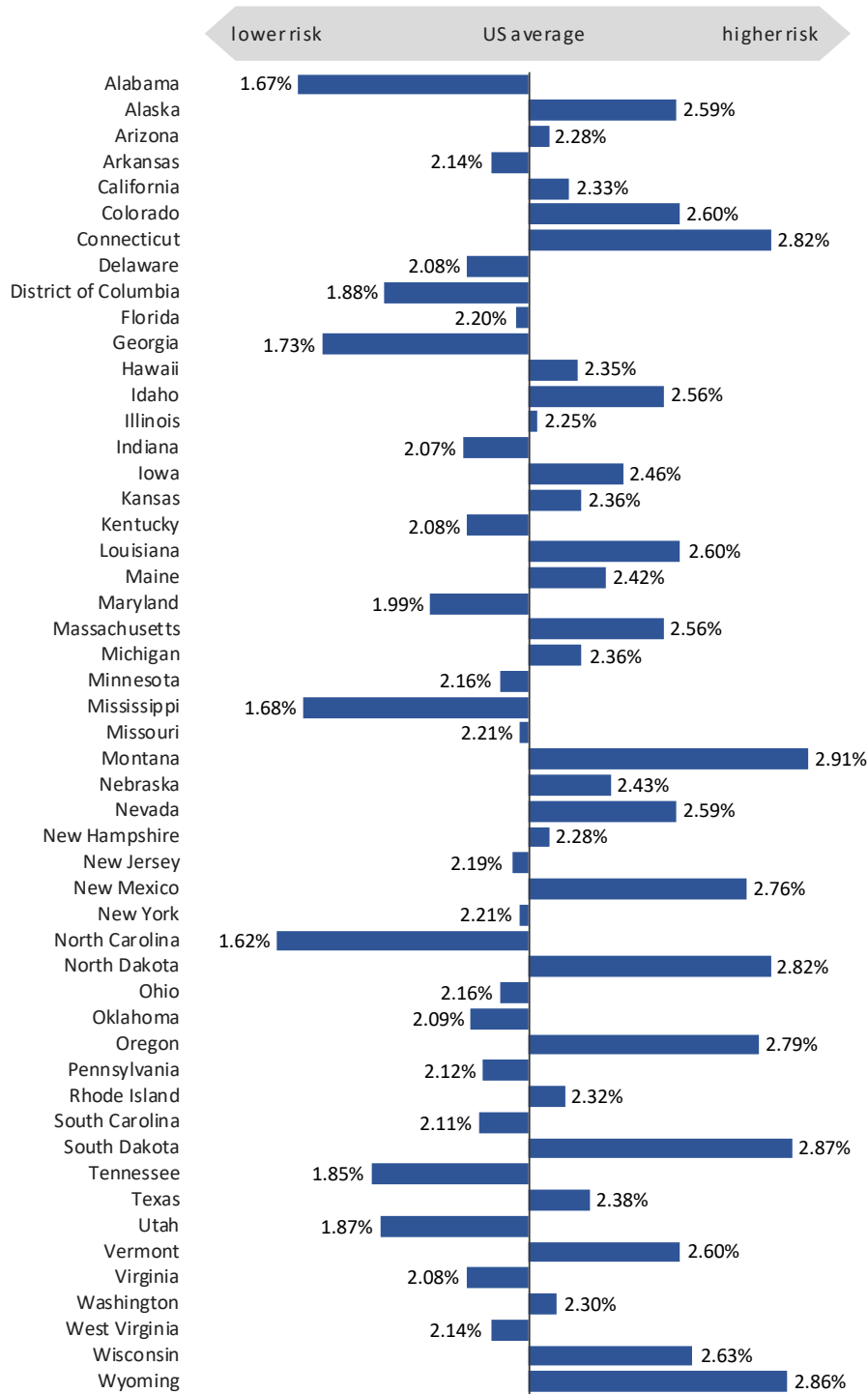


\*statistically significant difference between state and national average at  $p < .05$

<sup>30</sup> Source: 2015-2016 NSDUH: Model-Based Prevalence Estimates (50 States and the District of Columbia), Table 14. Perceptions of Great Risk from Having Five or More Drinks of an Alcoholic Beverage Once or Twice a Week, by Age Group (Ages 12 to 17) and State: Percentages, Annual Averages Based on 2015 and 2016 NSDUHs.



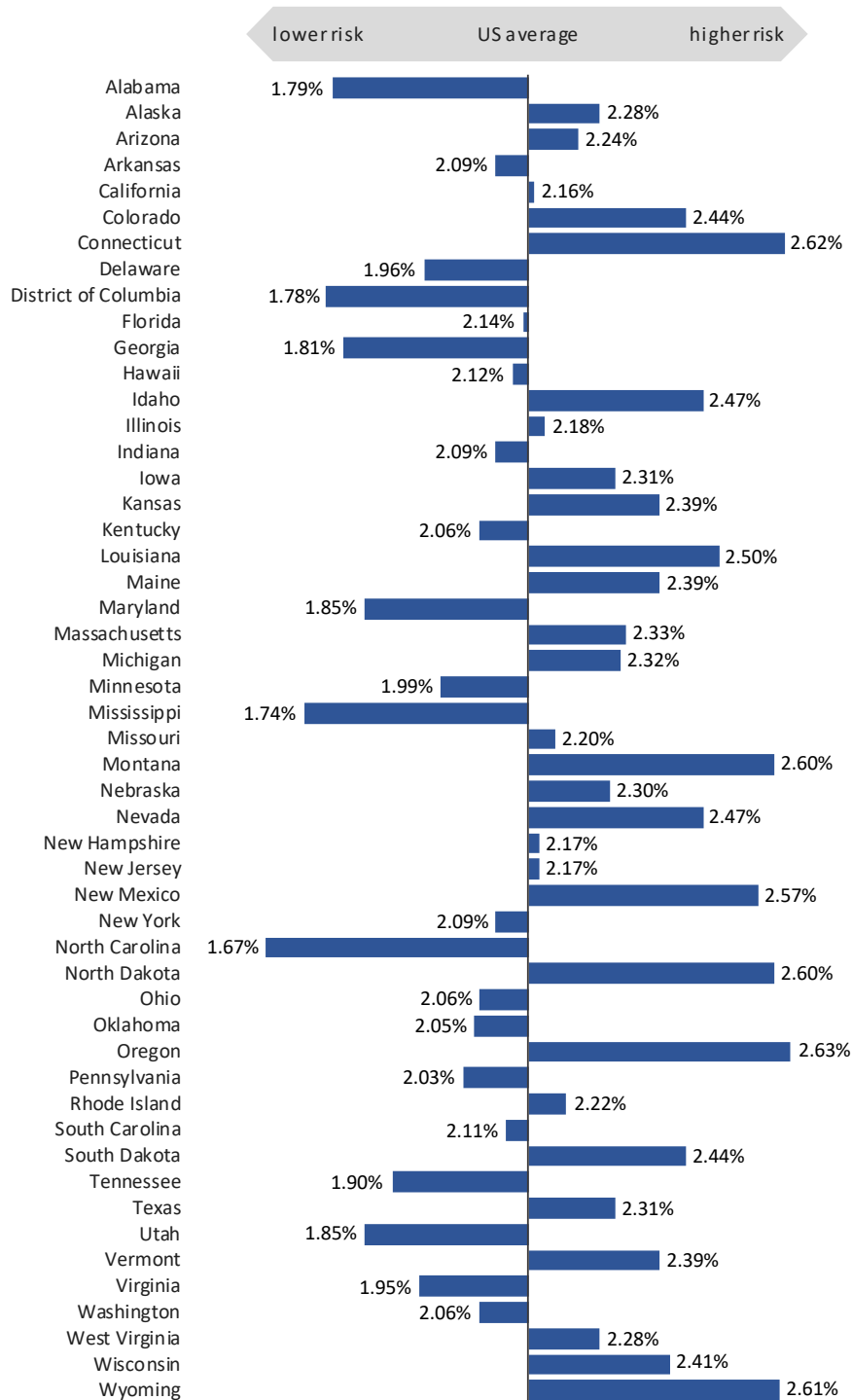
**Measure 4: Percentage of 12- to 17-year-olds with DSM-IV Alcohol Use Disorder.<sup>31</sup> U.S. average is 2.23%.**



No states were statistically significantly different from the national average.

<sup>31</sup> Source: 2015-2016 NSDUH: Model-Based Prevalence Estimates (50 States and the District of Columbia), Table 21. DSM-IV Alcohol Use Disorder in the Past Year, Ages 12 to 17 by State: Percentages, Annual Averages Based on 2015 and 2016 NSDUHs

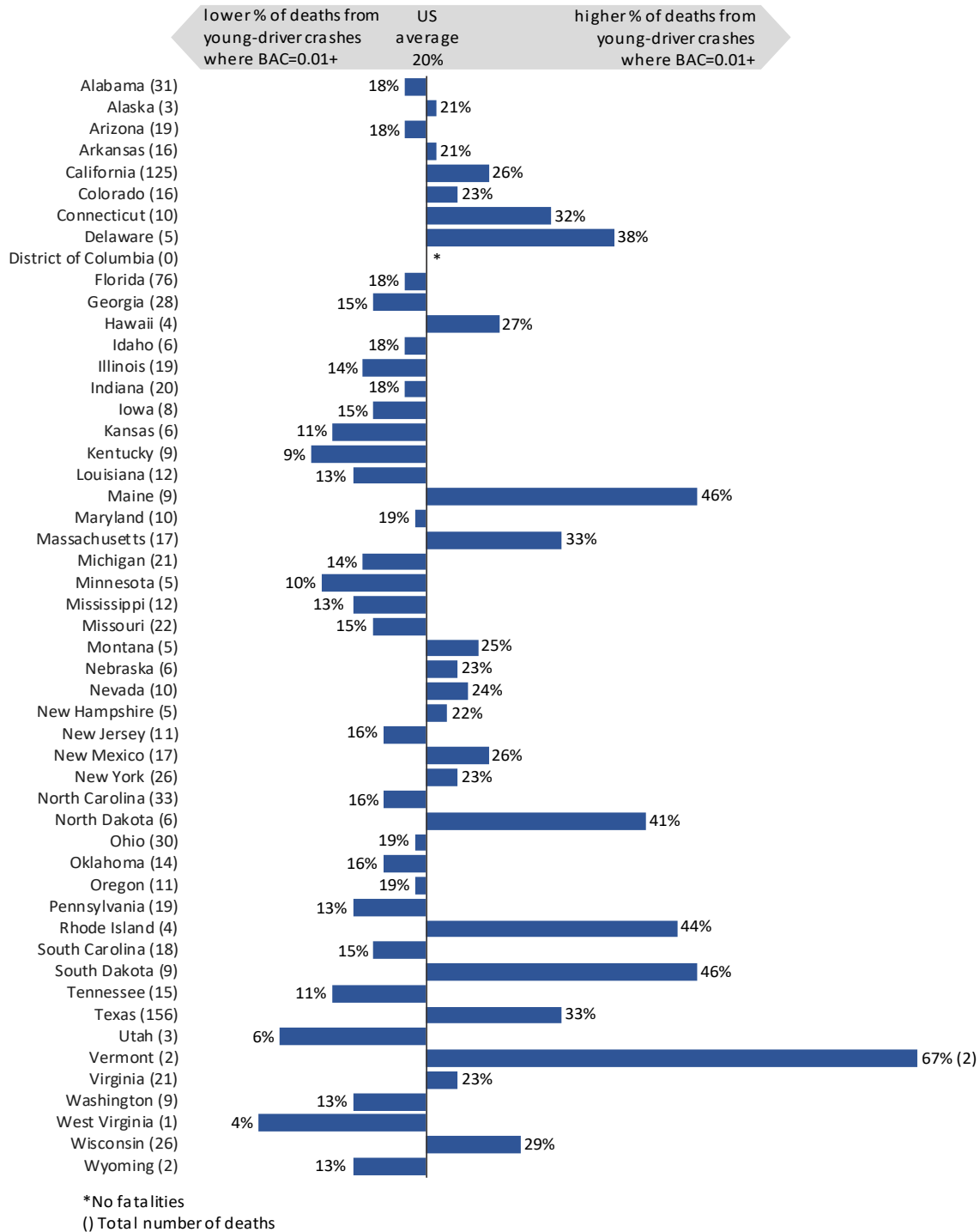
**Measure 5: Percentage of 12- to 17-year-olds who needed but did not receive treatment for alcohol use disorder at a specialty facility in the past year.<sup>32</sup> U.S. average is 2.15%.**



No states were statistically significantly different from the national average.

<sup>32</sup> Source: 2015-2016 NSDUH: Model-Based Prevalence Estimates (50 States and District of Columbia), Table 24. Needing But Not Receiving Treatment at a Specialty Facility for Alcohol Use in the Past Year, Ages 12 to 17 by State: Percentages, Annual Averages Based on 2015 and 2016 NSDUHs.

**Measure 6: Percentage of traffic crash deaths involving a 15- to 20-year-old driver with a BAC of 0.01 or higher. U.S. average is 20%.<sup>33</sup>**



No states were statistically significantly different from the national average.

<sup>34</sup>Source: Persons Killed in Motor Vehicle Traffic Crashes Involving a 15-20 Year Old Driver by Year, State, and the Highest 15-20 Year Old Driver's BAC in the Crash, 2016 Fatality Analysis Reporting System (FARS)—Final (2017 Special Analysis).



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