

References and Further Information

Legal research for this topic is planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. Historical data for the years 1996 through 2004 were obtained from “Graduated Driver Licensing Programs and Fatal Crashes of 16 year old Drivers: A National Evaluation” (Baker, S. P., Chen, L.-H., & Li, G. (2006).; National Highway Transportation Safety Administration DOT HS 810 614). 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). Data through January 1, 2011, were collected by SAMHSA. To see definitions of the variables for this policy, go to Appendix B.

Laws Targeting Alcohol Suppliers

7. FURNISHING ALCOHOL TO MINORS

Policy Description

All States prohibit furnishing alcoholic beverages to minors by both commercial (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 to their Furnishing laws of the types listed below.

Most underage persons obtain alcohol from adults including parents, older siblings and peers, or strangers solicited to purchase alcohol for the minor. Smaller numbers of youth purchase alcohol for themselves from merchants who fail to comply with laws prohibiting sale to minors or by using false identification (see the “False Identification” section of this Report). These sources increase the availability of alcohol to underage persons, 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:

- Family exceptions permit parents, guardians, or spouses to furnish alcohol to minors; some States specify that the spouse must be of legal age while others do not.
- Location exceptions permit furnishing alcohol in specified locations and may limit the extent to which family members can furnish 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. (Defenses associated with minors using false identification can be found in the “False Identification” section of this Report.) 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 RBS section of this Report 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” section of this Report 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: furnishing alcohol to minors, and allowing underage drinking to occur on property they control.

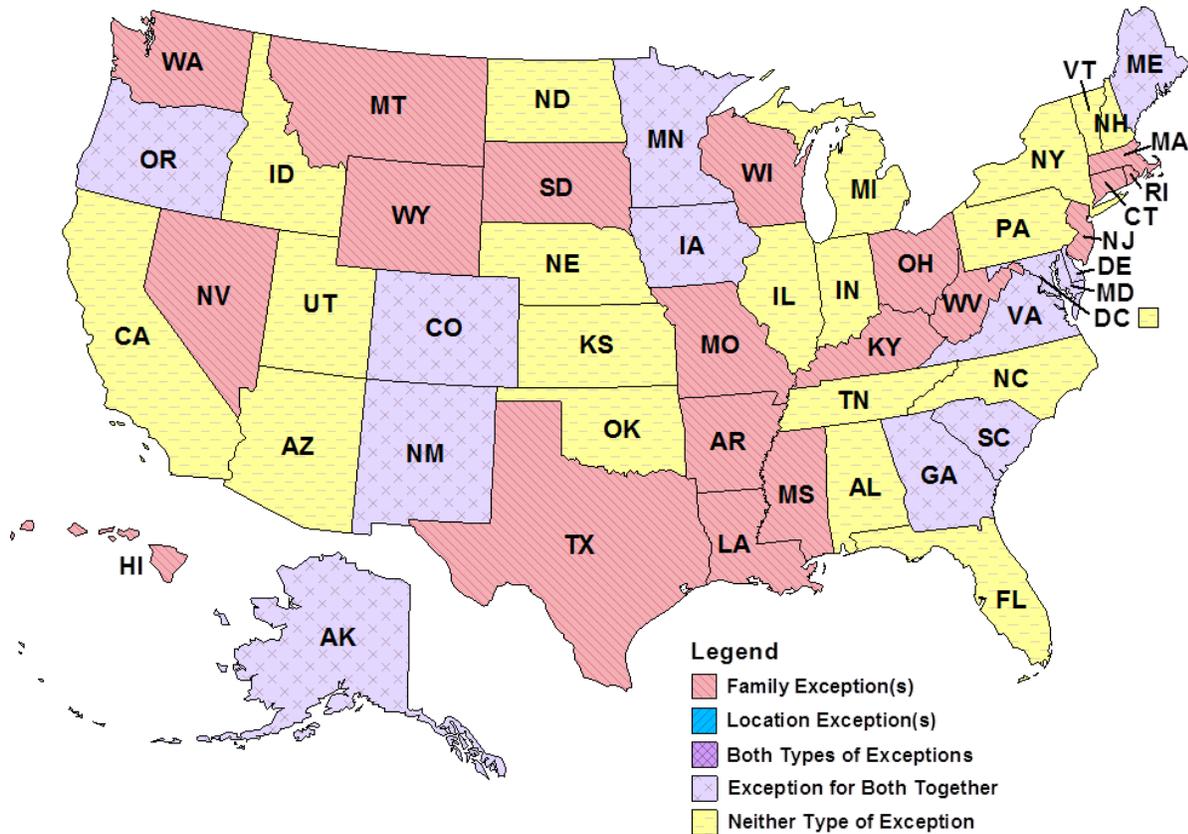
Also addressed in this Report are social host liability laws, which impose civil liability on hosts for injuries caused by their underage guests. Although related to party hosting laws, social host liability laws are distinct. They do not establish criminal or civil offenses, but instead allow injured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

Status of Underage Furnishing Policies

Exceptions to Furnishing Prohibitions

As of January 1, 2011, all States prohibit the furnishing of alcoholic beverages to minors (see Exhibit 4.3.17). Nineteen States and the District of Columbia have no family or location exceptions to this prohibition. The remaining 31 States permit parents, guardians, and/or spouses to furnish alcohol to their underage children and/or spouses. Of these, 12 States limit the exception to certain locations (3 States, any private location; 7 States, any private residence; 2 States, parents’ or guardians’ homes only).

Exhibit 4.3.17: Exceptions to Prohibitions on Furnishing Alcohol to Persons under Age 21 as of January 1, 2011



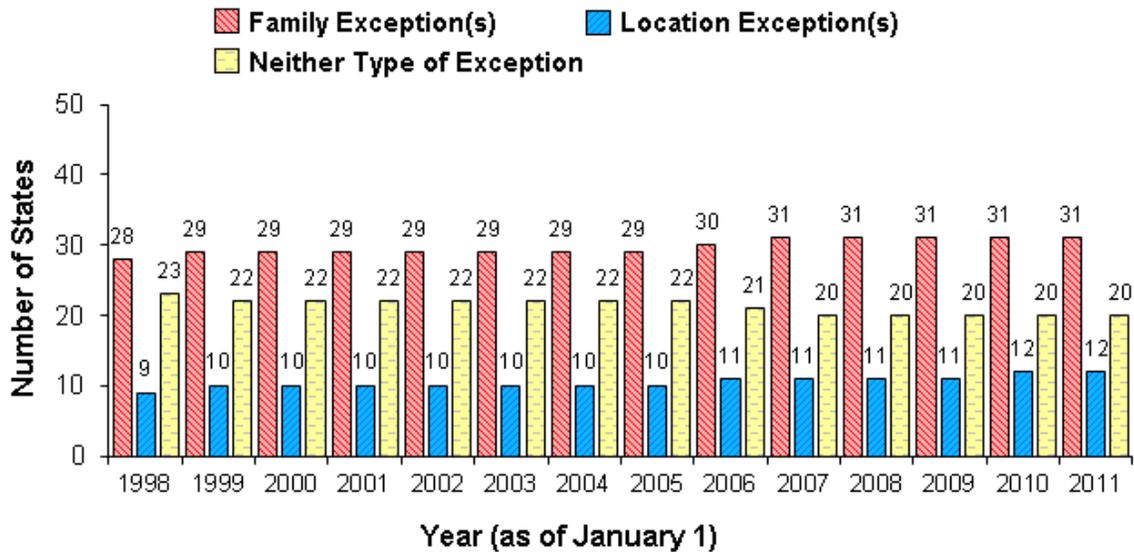
Affirmative Defense for Sellers and Licensees

As of January 1, 2011, the underage furnishing laws of two States (Michigan and South Carolina) include provisions requiring that the seller/licensee be exonerated of charges of furnishing alcohol to a minor unless the minor involved is charged.

Trends in Underage Furnishing Policies

State policies prohibiting the furnishing of alcohol to minors have remained stable over the last decade. As of January 1, 1998, all States prohibited underage furnishing (see Exhibit 4.3.18).

Exhibit 4.3.18: Number of States with Family and Location Exceptions to Prohibition on Furnishing Alcohol to Persons under Age 21, January 1, 1998, through January 1, 2011



References and Further Information

All data for this policy were obtained from APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. See the policy entitled “Furnishing Alcohol to Minors.” 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. To see definitions of the variables for this policy, go to Appendix B.

8. COMPLIANCE CHECK PROTOCOLS

Policy Description

Compliance checks involve an underage operative (a “decoy”) working with either law enforcement officials or agents from the Alcoholic Beverage Control (ABC) agency, who enters an alcohol retail establishment and attempts to purchase an alcoholic beverage from a server, bartender, or clerk. The protocols for these checks vary to some degree from State to State, but in general follow a similar outline. An underage person (allowable ages vary by State) serves as a decoy in the compliance check. Decoys are generally instructed to act and dress in an age-appropriate manner. The decoy enters an alcohol retail outlet to attempt 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 the decoy is observed by an undercover enforcement officer from a local police department or the State ABC agency. Audio and video recording equipment may also be used or required. State rules vary regarding a decoy’s use of legitimate identification 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/or the clerk or server may be subject to an administrative or criminal penalty.