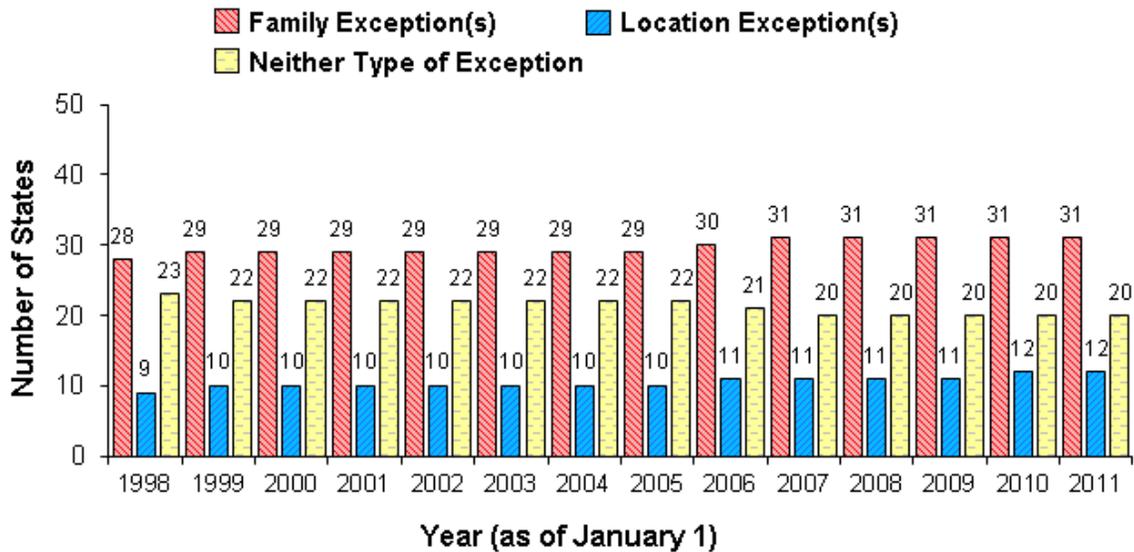


Exhibit 4.3.18: Number of States with Family and Location Exceptions to Prohibition on Furnishing Alcohol to Persons under Age 21, January 1, 1998, through January 1, 2011



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.

Most, but not all, States permit law enforcement agencies to conduct compliance checks on a random basis. A few States permit them 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 have issued formal compliance check protocols or guidelines. If the protocols are not adhered to, 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-premise licensed alcohol retailers are an important community tool for reducing illegal alcohol sales to minors and to promote community normative change. The Institute of Medicine (IOM) 2003 report, *Reducing Underage Drinking: A Collective Responsibility*, calls for (1) regular, random compliance checks; (2) administrative penalties, including fines and license suspensions that increase with each offense; (3) enhanced media coverage for the purposes and results of compliance checks; and (4) training for alcohol retailers regarding their legal responsibility to avoid selling alcohol to underage youths.

Compliance checks have both educational and behavior change goals:

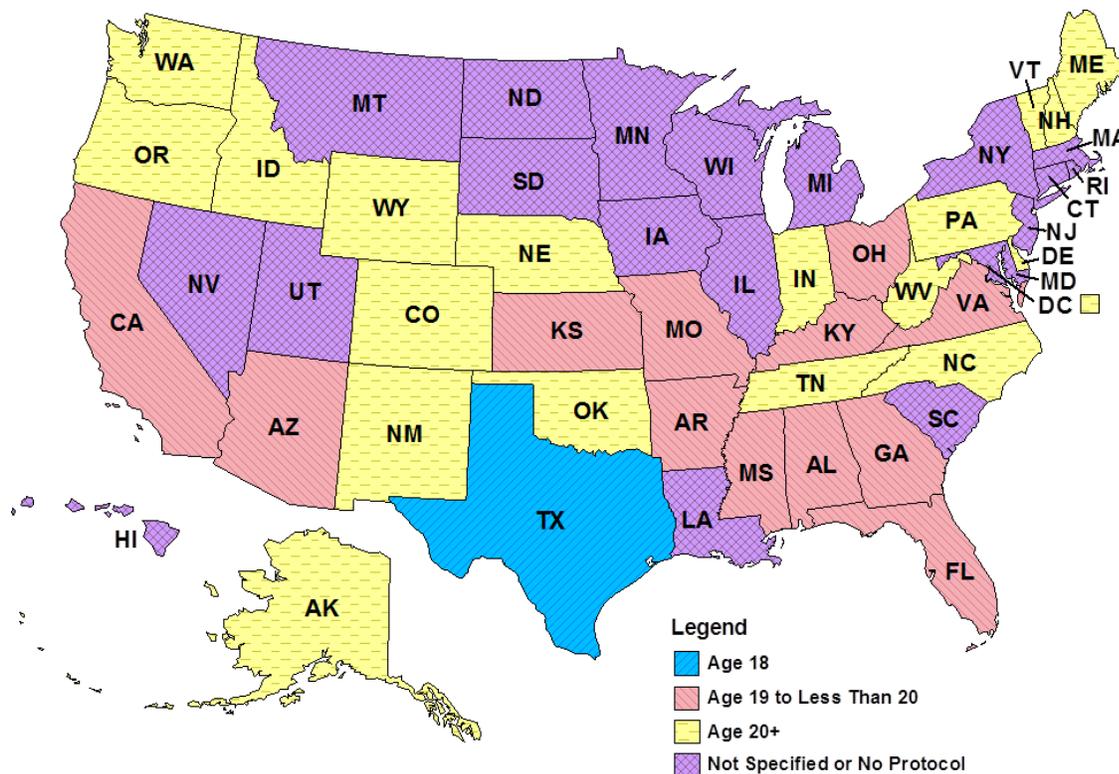
- Change or reinforce social norms that underage drinking is not acceptable by publicizing noncompliant retailers.
- Educate the community, including parents, educators, and policymakers, about the ready availability of alcohol to youth, which may not be considered a major issue.
- Increase alcohol retailers' perception that violation of sales to minors laws will be detected and punished, creating a deterrent effect.

Status of Compliance Check Protocols

Data for this policy were coded from formal compliance check protocols or guidelines. A total of 34 States and the District of Columbia have formal, written protocols; the remaining States either do not have them or do not have them readily available to the public.

Compliance check protocols are generally issued by the State police or the State ABC agency. These guidelines vary somewhat in specificity and detail, possibly reflecting difference in the purposes of the checks and the evidentiary standards in each jurisdiction.

The maximum age of the decoy varies from 18 to just under 21, with the majority of States requiring that the maximum age of the decoy be 19 or 20 (see Exhibit 4.3.19). Thirty-three jurisdictions have guidelines for the decoys' appearance (e.g., no facial hair on males, no makeup on females). These requirements vary widely by State. Three States use an age panel to ensure that the decoys appear underage. Three States allow decoys to verbally exaggerate their age, although no States allow the decoy to use a false ID. Decoy training is mandatory in 11 States. All States and the District of Columbia require a photograph of the underage decoy on the day of the operation, presumably to document that the decoy appeared underage.

Exhibit 4.3.19: Maximum Age of Compliance Check Decoys in 2011

References and Further Information

Legal research and data collection for this topic is planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. To see variables for this policy, go to Appendix B. For further information and background, see:

Pacific Institute for Research and Evaluation. (2007). *Reducing alcohol sales to underage purchasers: A practical guide to compliance investigations*. Washington, DC: U. S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

9. PENALTY GUIDELINES FOR SALES/SERVICE TO MINORS

Policy Description

In the majority of States, 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: perceived likelihood that a violation will lead to apprehension and sanction, swiftness with which the sanction is imposed, and severity of the sanction (Ross, 1992). As stated in the 2003 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, “Enforcement agencies should issue citations for violations of underage sales laws, with