

POLICY SUMMARIES

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POLICY SUMMARIES

Laws Addressing Minors in Possession of Alcohol

1. UNDERAGE POSSESSION

Policy Description

As of January 1, 2009, all States and the District of Columbia prohibit possession of alcoholic beverages for those under age 21. States may apply certain statutory exceptions to these laws.

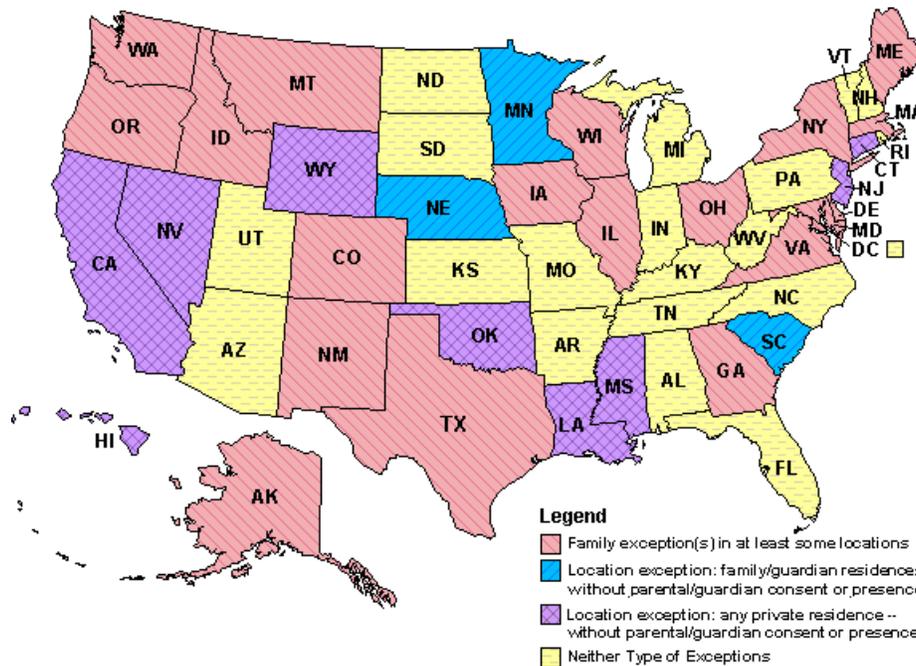
Some jurisdictions allow exceptions to possession prohibitions when a family member consents and/or is present. States vary widely in terms of which relatives may consent or must be present for this exception to apply and in what circumstances exceptions apply. In this Report, we focus on parental/guardian consent and/or parental/guardian presence as well as spousal exceptions, which apply when a minor's spouse is present and/or consents.

In addition to family member exceptions, some States permit exception to possession prohibitions on private property. States vary in the extent of private property exceptions, which may extend to all private locations, private residences only, or in the homes of parents or guardians only. In some jurisdictions, location exceptions are conditional on the presence and/or consent of parents, legal guardians, or spouses.

Status of Underage Internal Possession Policies

As of January 1, 2009, all 50 States and the District of Columbia prohibit possession of alcoholic beverages by those under age 21. Twenty-five jurisdictions have some type of family exception, 23 have some type of location exception, and 20 have neither. Twelve jurisdictions allow underage possession in at least some private locations without parental consent or presence. Three of these limit the location to the parent/guardian's residence; the remaining 9 allow minors to possess alcohol in any private residence (and, in some cases, other types of private locations) without requiring parental consent or presence.

Exceptions to Minimum Age of 21 for Possession Alcohol of as of January 1, 2009



Trends in Underage Possession Policies

During the 11-year period between 1998 and 2009, only three States have enacted changes to possession prohibitions: Maine, New Mexico, and Virginia. Maine expanded its location exception in 2001 from a parent/guardian's home to any private residence. New Mexico made two changes to its provisions in 1998 and 2004, adding parent/guardian/spouse exceptions provided that the possession occurs on private property under the control of the parent/guardian/spouse. Virginia's parent/guardian consent exception was amended in 2006, expanding it to include spouses, but requiring parent/guardian/spouse presence and limiting its applicability to private residences.

References and Further Information

All data for this policy were obtained from the Alcohol Policy Information System (APIS) at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled "Underage Possession 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. To see definitions of the variables for this policy, go to page 391.

2. UNDERAGE CONSUMPTION

Policy Description

Prohibitions and associated sanctions on consumption of alcohol by underage persons can be expected to depress rates of underage drinking by raising the monetary and social costs of this behavior. Such laws provide a primary deterrent (preventing underage drinking among nondrinkers) and a secondary deterrent (reducing the probability that adjudicated youth will drink again before attaining majority).

As of January 1, 2009, 33 jurisdictions prohibit consumption of alcoholic beverages for those under age 21. As with laws prohibiting underage possession and internal possession, which are presented in separate sections of this Report, many States that prohibit consumption apply various statutory exceptions.

Some States with consumption prohibitions allow exceptions when a family member consents and/or is present. States 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. In this Report, we focus on two types of family member exceptions: parental/guardian consent and/or presence, and exceptions that apply when a minor's spouse is present and/or consents.

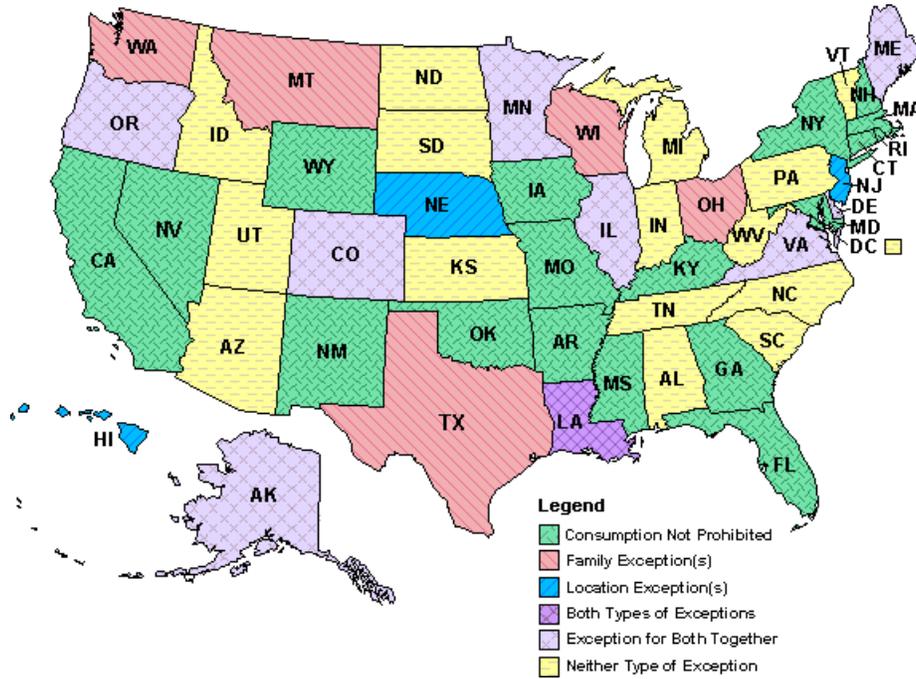
In addition to family member exceptions, some States with consumption prohibitions permit exceptions on private property. States vary in the extent of the private property exception, which may extend to all private locations, private residences only, or in the home of a parent or guardian only. In some jurisdictions, a location exception is conditional on the presence and/or consent of a parent, legal guardian, or spouse.

It is important to note that consumption, possession, and internal possession policies are closely linked because consumption generally requires possession and precedes internal possession. State policies for the three are not identical, however. Although all States prohibit possession of alcohol by minors, some States do not specifically prohibit underage alcohol consumption and internal possession. In addition, some States that do prohibit underage consumption allow different exceptions for consumption than those that apply to underage possession and internal possession. It is therefore recommended that the underage possession, consumption, and internal possession policies be reviewed in conjunction with each other. Underage possession and internal possession prohibitions are detailed elsewhere in this Report.

Status of Underage Consumption Policies

As of January 1, 2009, 33 jurisdictions prohibit consumption of alcoholic beverages by those under the age of 21. Of those, 14 permit family exceptions to the law, 12 permit location exceptions, and 16 permit neither type of exception. Five States (Washington, Montana, Texas, Wisconsin, and Ohio) only permit family exceptions; three States (Hawaii, New Jersey, and Nebraska) only permit location exceptions; one State (Louisiana) has both types of exceptions; and eight States permit underage consumption only if both family and location criteria are met.

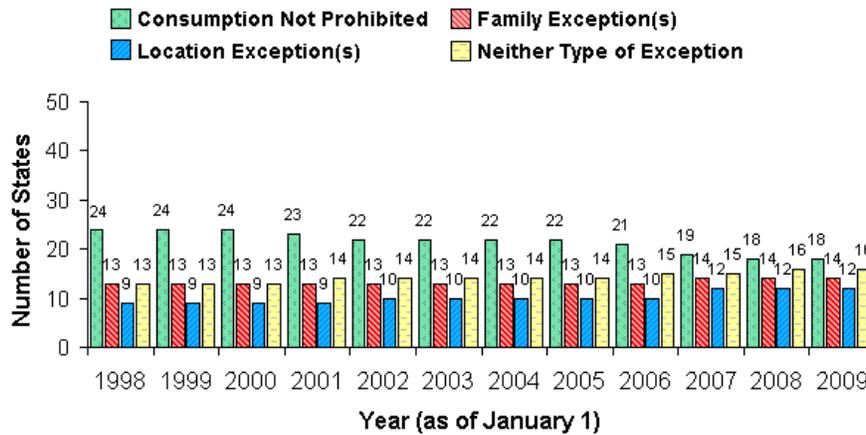
Exceptions to Minimum Age of 21 for Consumption of Alcohol as of January 1, 2009



Trends in Underage Consumption Policies

As the chart below illustrates, during the 11-year period between 1998 and 2009, the number of jurisdictions that prohibited underage consumption decreased from 24 to 18. Alongside that decrease, location exceptions rose from 9 to 12; family exceptions held relatively constant (from 13 to 14); and the number of jurisdictions with neither type of exception rose from 13 to 16.

Number of States With Family and Location Exceptions to Minimum Age of 21 for Consumption of Alcohol, January 1, 1998 Through January 1, 2009



References and Further Information

All data for this policy were obtained from APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Underage Possession/Consumption/Internal Possession 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. For definitions of the variables for this policy, go to page 391.

3. INTERNAL POSSESSION BY MINORS

Policy Description

Although possession of alcoholic beverages for those under age 21 is prohibited in all States and underage consumption is prohibited in most States, several States have recently enacted laws prohibiting internal possession of alcohol by minors. Internal possession statutes 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 an additional tool used to reduce the public health harm from underage drinking, and are especially useful to law enforcement when dispersing underage drinking parties. These laws allow officers to bring charges against underage persons who are neither holding nor drinking alcoholic beverages in their presence.

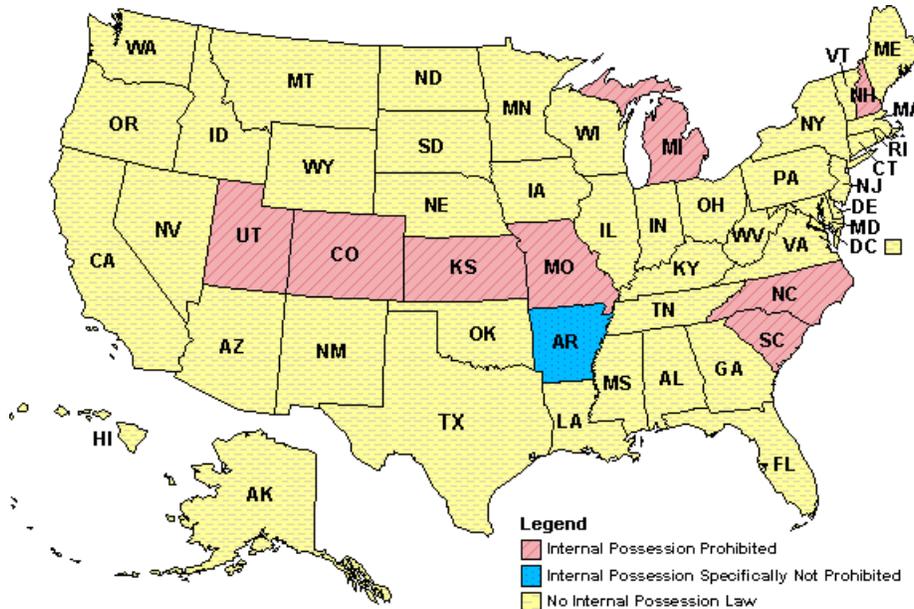
As with laws prohibiting underage possession and consumption, which are presented in separate sections of this Report, States that prohibit internal possession may apply various statutory exceptions; for example, a State may allow an exception to internal possession prohibitions when a family member consents and/or is present. States vary as to which relatives may consent or must be present for this exception to apply and in what circumstances.

States may also allow exceptions to internal possession prohibitions on private property. This exception may extend to all private locations, private residences only, or only to the home of a parent or guardian. A location exception may be conditional on the presence and/or consent of a parent, legal guardian, or spouse.

Status of Underage Internal Possession Policies

As of January 1, 2009, eight States prohibit internal possession of alcoholic beverages for anyone under the age of 21. One state, Arkansas, specifically does not prohibit internal possession by minors. Of the eight States that prohibit internal possession, six do not make any exceptions. In contrast, Colorado has exceptions for situations in which parents or guardians are present and give consent and the possession occurs in any private location. South Carolina’s law makes an exception for internal possession in the homes only of parents or guardians.

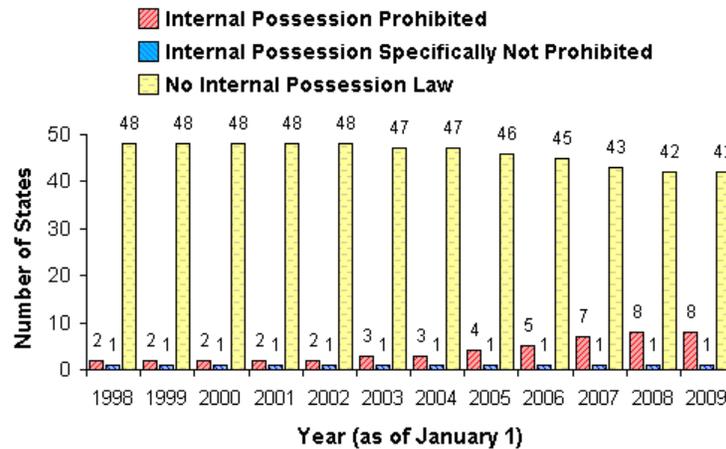
Prohibition of Internal Possession of Alcohol by Persons Under 21 Years of Age as of January 1, 2009



Trends in Underage Internal Possession Policies

Six of the eight existing States with underage internal possession statutes as of January 1, 2009, have enacted those laws since 1998. As the chart below illustrates, during the 11-year period between 1998 and 2009, the number of States that prohibit underage internal possession has grown steadily. Since 1998, no additional States have enacted statutes that specifically do not prohibit underage internal possession.

Distribution of States With Laws Prohibiting Internal Possession of Alcohol by Persons Under 21 Years of Age, January 1, 1998 through January 1, 2009



References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Underage Possession/Consumption/Internal Possession 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. To see definitions of the variables for this policy, go to page 392.

4. UNDERAGE PURCHASE AND ATTEMPTED PURCHASE

Policy Description

As of January 1, 2009, 46 States and the District of Columbia prohibit minors from purchasing or attempting to purchase alcoholic beverages. A minor who purchases alcoholic beverages can be prosecuted for possession because a sale cannot be completed until there is possession on the part of the purchaser. Although closely linked, purchase and possession are nevertheless separate offenses. A minor who purchases alcoholic beverages is potentially liable for two offenses in jurisdictions that have both prohibitions. See the “Underage Possession” section of this Report for further discussion.²⁸

A significant minority of youths purchase or attempt to purchase alcohol for themselves, sometimes using falsified identification (see the “False Identification” section of this Report).

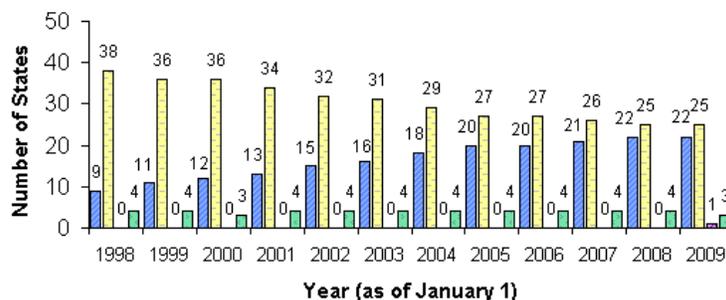
Such purchases increase the availability of alcohol to underage persons, which, in turn, increases underage consumption. Prohibitions and associated sanctions on alcohol purchases by underage persons can be expected to depress rates of purchase and attempted purchase by raising the monetary and social costs of this behavior. Such 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 law enforcement actions. Most commonly, these actions are checks of merchant compliance or stings to identify merchants who illegally sell alcoholic beverages to minors. This exemption for purchase in the law enforcement context may exist even in States that do not have laws specifically prohibiting underage purchase—in which case, technically, the exemption is to the State’s underage possession law.

²⁸ 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. It is likely that courts in States that only include the purchase prohibition in their statutes would 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 therefore not treated separately in this Report.

Underage Purchase of Alcohol for Law Enforcement Purposes, January 1, 1998 Through January 1, 2009

- Purchase Prohibited; Youth May Purchase for Law Enforcement Purposes
- Purchase Prohibited; No Allowance for Youth Purchase for Law Enforcement Purposes
- Purchase Not Prohibited; Youth May Purchase for Law Enforcement Purposes
- Purchase Not Prohibited; No Allowance for Youth Purchase for Law Enforcement Purposes



References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “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. For definitions for the variables in this policy, go to page 392.

5. FALSE IDENTIFICATION (“FALSE ID”)

Policy Description

Alcohol retailers are responsible for ensuring that alcoholic beverages are sold only to persons legally permitted to purchase alcohol. Inspecting government-issued identification (e.g., driver’s license, non-driver identification card, passport, or military identification) is a primary means of verifying that buyers meet minimum age requirements.²⁹

Minors may obtain and use apparently valid identification that falsely states their age as 21 or over in an attempt to circumvent this safeguard against illegal sales. Age may be falsified by altering the birth date on a valid identification, obtaining an invalid identification card that appears to be valid, or using someone else’s identification. Current technology, including high

²⁹ Government-issued IDs are used for a number of age-related purposes other than the purchase of alcohol: registering to vote, enlisting in the military, entering certain entertainment venues, etc. States have enacted laws regarding the manufacture and use of false IDs for these and other purposes, and in some cases these laws might apply to minors purchasing alcohol. This report confines its analysis to statutes and regulations that specifically address the use of false identification for the purpose of obtaining alcohol.

quality color copiers and printers, has made false IDs easier to fabricate, and the Internet provides ready access to a large number of false identification vendors.

In addition to making it illegal to use a false ID, States have adopted a variety of related legal provisions that can be divided into three basic categories:

- Provisions that target minors who possess and use false identification to obtain alcohol, such as the requirement that the offender's driver's license be revoked or suspended.
- Provisions that target those who supply minors with false IDs by either lending a valid ID or producing false IDs.
- Provisions that assist retailers in avoiding sales to potential buyers who present false identification, such as:
 - Providing incentives to retailers who use electronic scanners that read birth date information digitally encoded on valid identification cards.
 - Issuing distinctive driver's licenses for persons under the age of 21.
 - Granting retailers an affirmative defense in prosecution involving an illegal underage alcohol sale based on the retailers' belief that the minor was of age.
 - Permitting retailers to seize apparently false IDs without fear of prosecution.
 - Giving retailers the right to detain or sue an underage person using false identification to purchase alcohol.

For further discussion of policies pertaining to the purchase of alcohol by minors, see the "Underage Purchase and Attempted Purchase" section of this Report; of policies that mandate training of servers to detect false identification, the "Responsible Beverage Service" section of this Report; and of license suspension or revocation, the "Loss of Driving Privileges for Alcohol Violations by Minors" section of this Report.

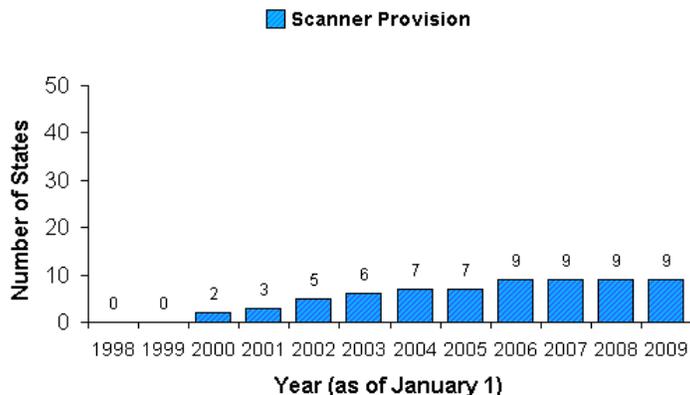
Status of False ID Policies

Provisions That Target Minors

As of January 1, 2009, all States and the District of Columbia prohibit minors from using false IDs to obtain alcohol. All but eight States (Delaware, Kansas, Nebraska, Nevada, New Mexico, North Dakota, Vermont, and Wyoming) authorize suspension of minors' driver's licenses for using a false ID in the purchase of alcohol, in all but four cases (Alaska, Illinois, Ohio, and West Virginia) through judicial proceedings. Two States (Arizona and Iowa) allow for both judicial and administrative proceedings for license sanctions.

Hampshire) have been enacted during this time period. Idaho is an exception to the general trend; in 2007, it rescinded its law permitting retailers to seize apparently false IDs.

Number of States With Scanner Provisions in Their False ID Laws, January 1, 1998 Through January 1, 2009



References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled "False Identification for Obtaining 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. Variables are defined on page 392.

Laws Targeting Underage Drinking and Driving

6. YOUTH BLOOD ALCOHOL CONCENTRATION LIMITS (UNDERAGE OPERATORS OF NONCOMMERCIAL MOTOR VEHICLES)

Policy Description

The blood alcohol concentration (BAC) limits policy establishes the maximum amount of alcohol a minor can have in his/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 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 adult drivers.

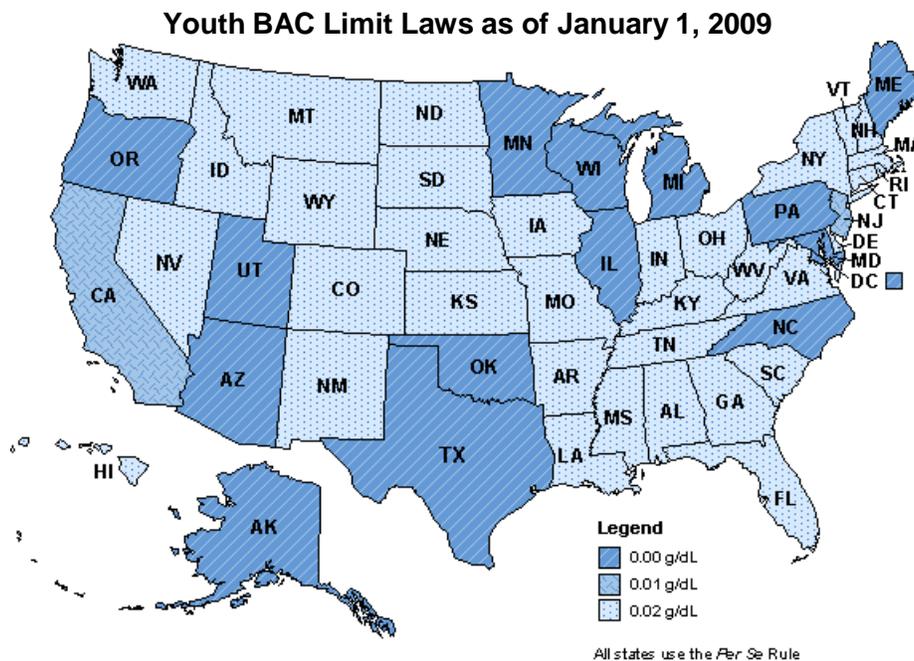
Owing to differences between young people and adults (e.g., body mass, physiological development, driving experience), young people's ability to safely operate a motor vehicle is impaired at a lower BAC than in adults. Partly as a result of financial incentives established by the Federal Government, 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 have been widely referred to as zero-tolerance laws.

All jurisdictions have enacted per se BAC laws for youths operating noncommercial motor vehicles. A per se BAC statute establishes a BAC limit for a violation. 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 (for example, 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

Youth BAC Limits

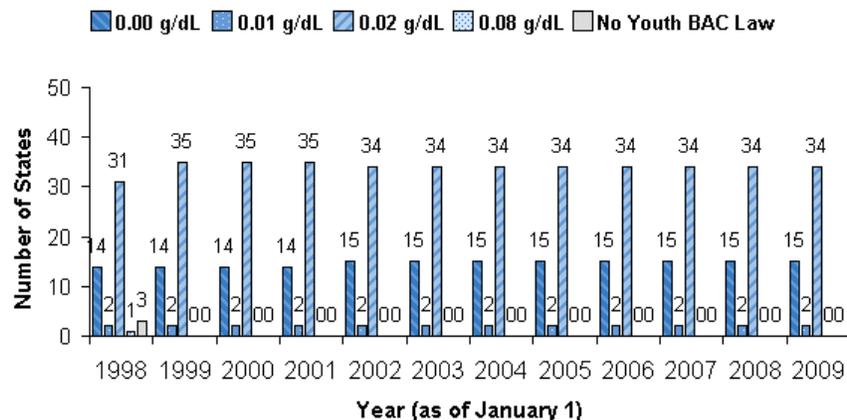
As of January 1, 2009, 34 States set the driving BAC limit for underage persons at 0.02 g/dL. The District of Columbia and 14 States consider any underage alcohol consumption while driving to be a violation of the law and have set the limit to 0.00 g/dL. Two states (California and New Jersey) have set 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. In the decade between 1999 and 2009, 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. Prior to 1998, three states (South Carolina, South Dakota, and Wyoming) had no youth BAC limits and one (Mississippi) set the limit to 0.08 g/dL.

Distribution of Youth BAC Limit Laws From January 1, 1998, Through January 1, 2009



References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Blood Alcohol Concentration Limits: Youth (Underage Operators of Noncommercial Motor Vehicles).” 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 page 394.

7. LOSS OF DRIVING PRIVILEGES FOR ALCOHOL VIOLATIONS BY MINORS (“USE/LOSE” LAWS)

Policy Description

As the name suggests, “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 them 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.

Related State laws specific to minors (e.g., 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” sections of this Report.

Status of Loss of Driving Privileges Policies

Type of Violation Leading to Suspension or Revocation of License

Use/lose laws exist in 39 States and the District of Columbia. Of these, 18 cite all three types of violation (purchase, possession, and consumption of alcohol) as causes to suspend or revoke minors’ licenses; 13 cite two types of violation; and 9 cite only one type.

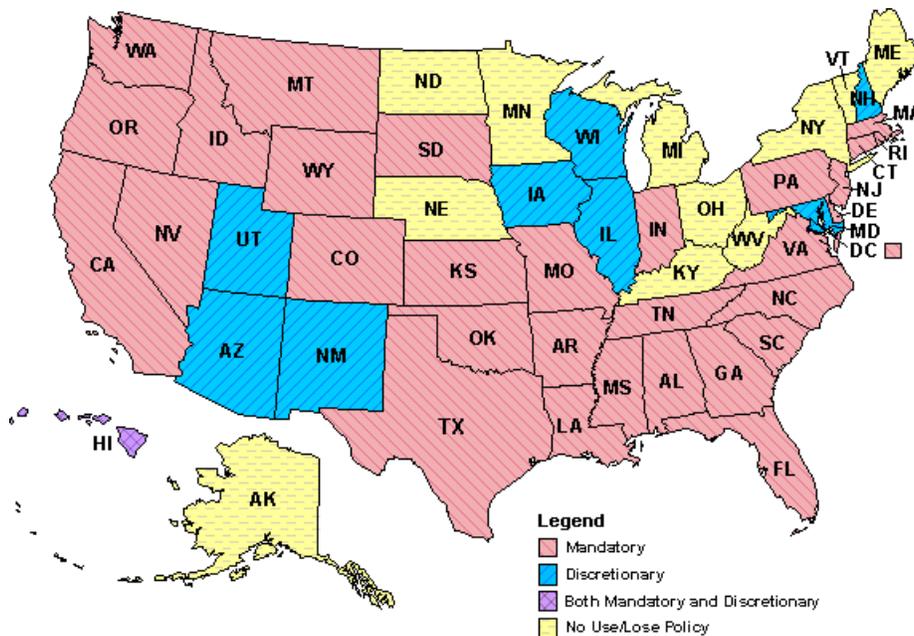
Upper Age Limit

Twenty-six States and the District of Columbia set 21 years of age as the upper limit for which use/lose laws apply. Nine States set the upper limit at 18 years, and one State (Wyoming) sets the limit at 19 years. In three States (Hawaii, Tennessee, and Virginia), some sanction conditions vary depending on whether the violator is under the age of 18 or under the age of 21.

Authority To Impose License Sanction

The majority of jurisdictions (30 States and the District of Columbia) have made license suspension or revocation mandatory in cases of underage alcohol violations. Eight States have made this a discretionary penalty for such violations, and 11 States have no use/lose law. One State, Hawaii, makes this a discretionary penalty for minors below the age of 18, but mandatory for violators aged 18 through 20.

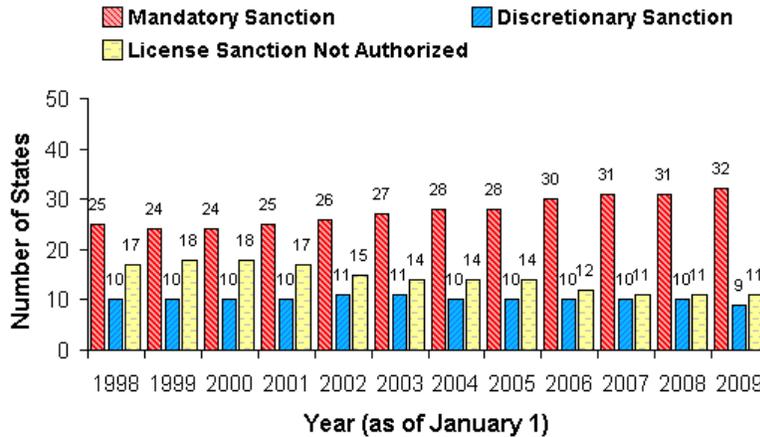
License Suspension/Revocation for Alcohol Violations by Minors as of January 1, 2009



Trends in Loss of Driving Privileges Policies

Between 1998 and 2009, the number of States that made license suspension or revocation mandatory in cases of underage alcohol violations increased steadily from 25 to 32. During this same time period, the number of jurisdictions with no use/lose laws decreased from 17 to 11, and the number with discretionary authority to impose use/lose sanctions dropped from 10 to 9.

Distribution of License Suspension/Revocation Procedures for Alcohol Violations by Minors, January 1, 1998 Through January 1, 2009



References and Further Information

Data for this policy were obtained from APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose” Laws).” 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 page 394.

8. GRADUATED DRIVER’S LICENSES

Policy Description

Graduated driver licensing (GDL) is a system designed to delay full licensure for teenage automobile drivers while allowing beginners to gain experience under lower-risk 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: a minimum supervised learner’s period, an intermediate license (once the driving test is passed) that limits unsupervised driving in high-risk

situations, and a full-privilege driver's license available 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 variables:

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

The intermediate stage of GDL law has five variables:

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

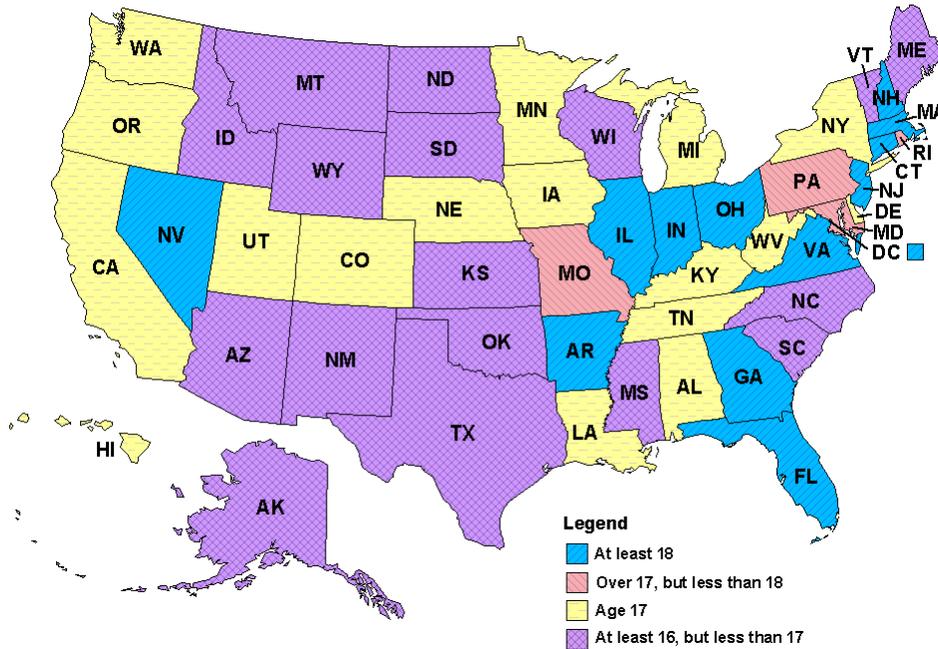
Currently, all 50 States and the District of Columbia have some form of GDL policy, although only 48 jurisdictions have full three-stage criteria. The minimum ages established for each stage and the extent to which the other restrictions are imposed vary across jurisdictions. Arkansas, Kansas, and North Dakota omit the intermediate stage; young drivers are eligible for full licensure upon completion of the learner stage.

Among the most important GDL provisions related to traffic safety is the minimum age for full licensure. Thirteen jurisdictions allow full licensure on the 18th birthday; four jurisdictions permit it at ages above 17 but under 18; and 17 permit it on the 17th birthday. The remaining 17 jurisdictions permit full licensure to those who are under 17 but at least 16 years old.

Another key traffic safety GDL provision is night driving restrictions and their primary enforcement. All but four jurisdictions have night driving restrictions; the hours during which these restrictions apply vary widely among jurisdictions, but fall largely between the hours of 6 p.m. and 1 a.m. Thirty-five jurisdictions have primary enforcement of night driving restrictions.

Passenger restrictions and their primary enforcement affect traffic safety and show variation among States. Forty-one jurisdictions place passenger restrictions on drivers with less than full licensure, and 26 of those have primary enforcement of these restrictions.

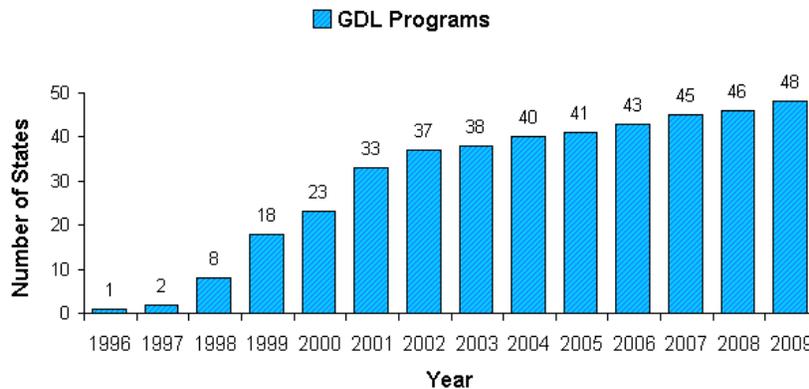
Minimum Age of Full Driving Privileges Laws as of January 1, 2009



Trends in Graduated Driver Licensing Policies

Since the mid-1990s, States have steadily enacted three-stage GDL laws. On January 1, 1996, only one State, Maryland, had such a law, but by 2000, 23 jurisdictions had enacted three-stage GDL laws and by 2009, that number had risen to 48.

Number of States (and District of Columbia) With Three-Stage Graduated Drivers Licensing Policies, July 1, 1996 Through January 1, 2009



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, 2009 were collected by SAMHSA. To see definitions of the variables for this policy, go to page 394.

Laws Targeting Alcohol Suppliers

9. FURNISHING OF ALCOHOL TO MINORS

Policy Description

All States prohibit any type of furnishing alcoholic beverages to minors (including sales, gifts, and other types of transactions, whether commercial or noncommercial), although most include some exceptions. 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. 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.

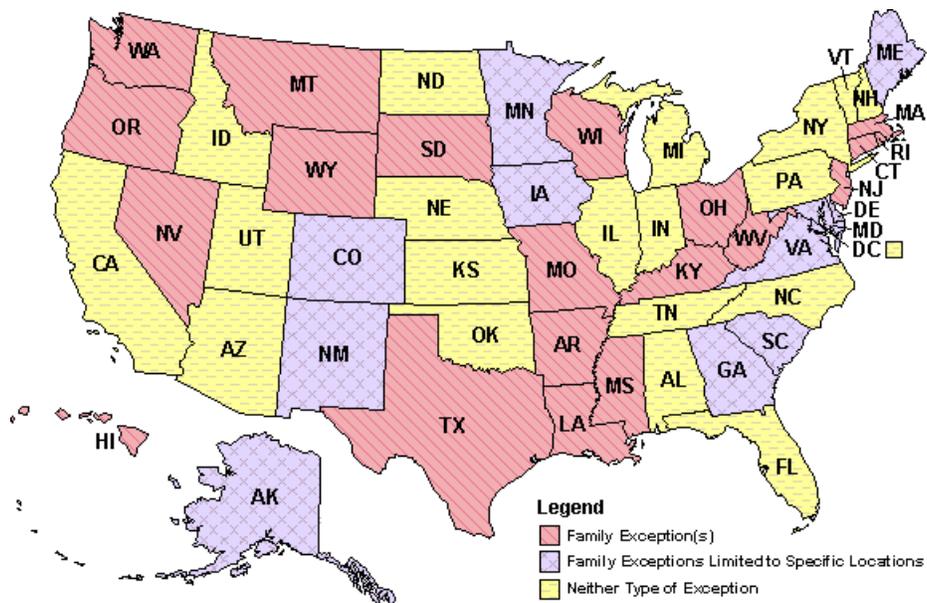
Also addressed in this Report are social host liability laws, which impose civil liability on hosts for injuries caused by their underage guests. Although related to host party laws, social host liability laws are distinct. They do not establish criminal or civil offenses, but instead allow injured parties 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, 2009, 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. The remaining 31 States permit parents, guardians, and/or spouses to furnish alcohol to their underage children and/or spouses. Of these, 11 States limit the exception to certain locations (3 States, any private location; 6 States, any private residence; 2 States, parents’ or guardians’ homes only).

Exceptions to Prohibition of Furnishing of Alcohol to Persons Under Age 21 as of January 1, 2009



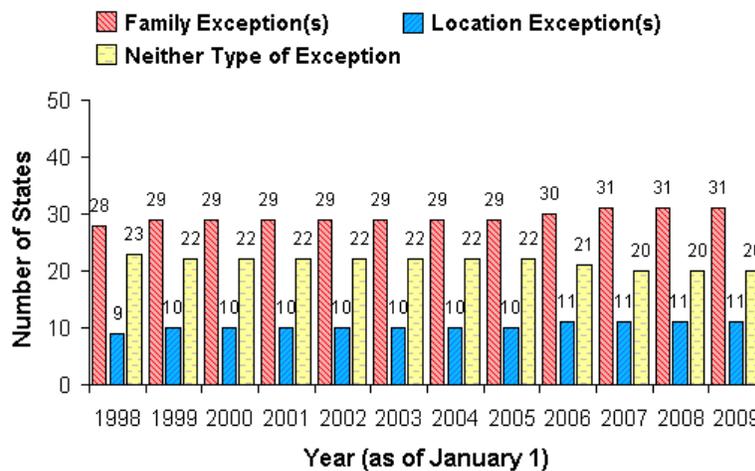
Affirmative Defense for Sellers and Licensees

As of January 1, 2009, 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. In the years between 1998 and 2009, three States added new family exceptions, one with a location limitation.

Number of States With Family and Location Exceptions to Prohibition of Furnishing Alcohol to Persons Under Age 21, January 1, 1998 Through January 1, 2009



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 page 395.

10. RESPONSIBLE BEVERAGE SERVICE

Policy Description

Responsible beverage service (RBS) training policies set requirements or incentives for retail alcohol outlet participation in programs that: (1) develop and implement policies and procedures for preventing alcohol sale and service to minors and intoxicated persons, and (2) train licensees, managers, and servers/sellers to implement RBS policies and procedures effectively.

Server/seller training focuses on serving and selling procedures, signs of intoxication, methods for checking age identification, and intervention techniques. Manager training includes the

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 sale and furnishing to minors.

Responsible beverage service 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 licenses 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: (1) 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); (2) discounts for dram shop liability insurance; (3) mitigation of fines or other administrative penalties for sales to minors or sales to intoxicated persons; and (4) protection against license revocation for sales to minors or intoxicated persons.

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

Status of Responsible Beverage Service Training Policies

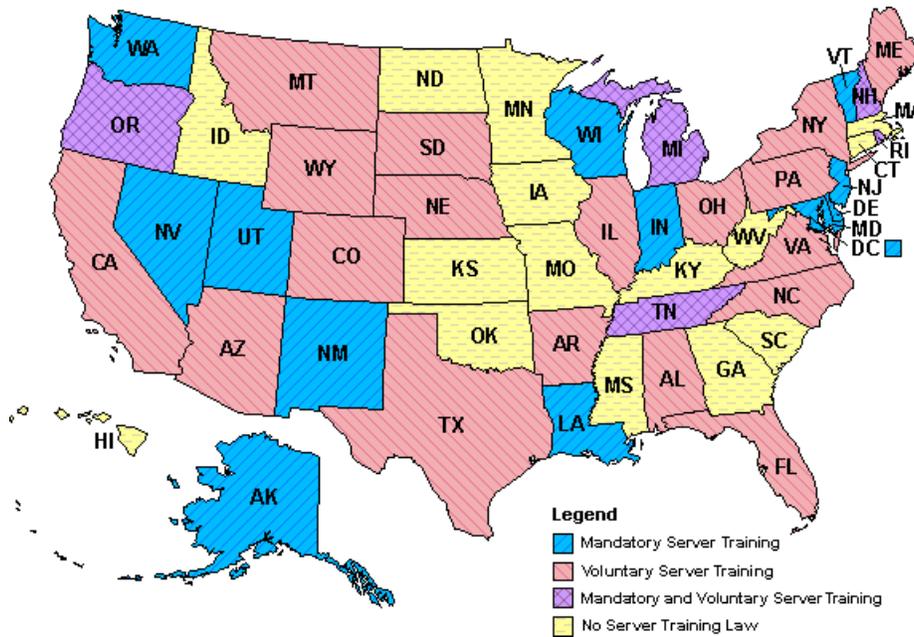
Mandatory and Voluntary Responsible Beverage Service Training Provisions

As of January 1, 2009, 35 States and the District of Columbia have some type of RBS training provision. Out of these, 17 States and the District of Columbia have some form of mandatory provision and 23 States provide for voluntary training. Of the 17 mandatory States, 12 States and the District of Columbia apply their RBS training provisions to both on- and off-sale establishments; 3 States (Michigan, Tennessee, and Washington) apply them to on-premises establishments only; New Jersey limits its provisions to off-sale establishments; and Rhode Island’s provisions make no specification. Twelve of the mandatory States and the District of Columbia apply their provisions to both new and existing establishments, while four States (Michigan, New Hampshire, New Jersey, and Wisconsin) apply them to new establishments only. Five States (Michigan, New Hampshire, Oregon, Rhode Island, and Tennessee) have both mandatory and voluntary provisions.

- Michigan: The mandatory provisions apply to new on-premises establishments; the voluntary provisions apply to existing on-premises establishments.
- New Hampshire: The mandatory provisions apply to new on- and off-premises establishments; the voluntary provisions provide incentives available to all types of establishments.
- Oregon: Both the voluntary and mandatory provisions apply to all types of establishments, with the voluntary provisions offering incentives for participation in both.

- Rhode Island: The mandatory provisions apply to new and existing establishments, but do not specify whether they apply to on-sale establishments, off-sale establishments, or both. The voluntary provisions offer dram shop liability defense incentives and do not specify which types of establishments may participate.
- Tennessee: The mandatory provisions apply to new and existing on-premises establishments. The voluntary provisions offer incentives available to off-premises establishments but do not specify whether the incentives are available to new and/or existing establishments.

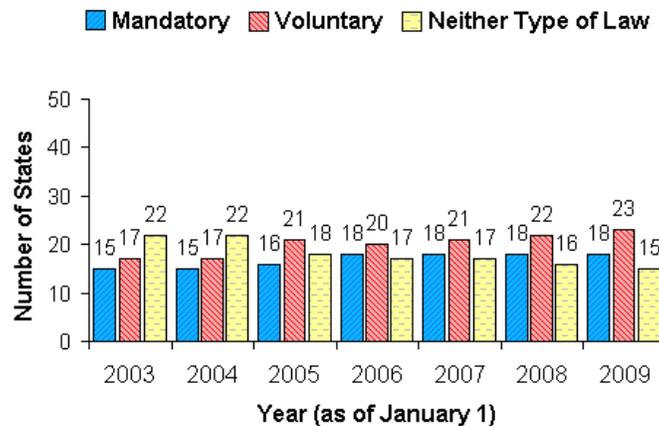
Responsible Beverage Service Training as of January 1, 2009



Trends in Responsible Beverage Service Policies

In the years between 2003 and 2009, the number of States with mandatory policies increased from 15 to 18, and the number of States with voluntary policies rose from 17 to 23. The number of States with no RBS training policy decreased from 22 to 15.

Number of States With Beverage Server Training Laws, January 1, 2003 through January 1, 2009



Note: some jurisdictions have both types of laws

References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Beverage Service Training and Related Practices”. 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 page 396.

11. 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 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 employees 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.

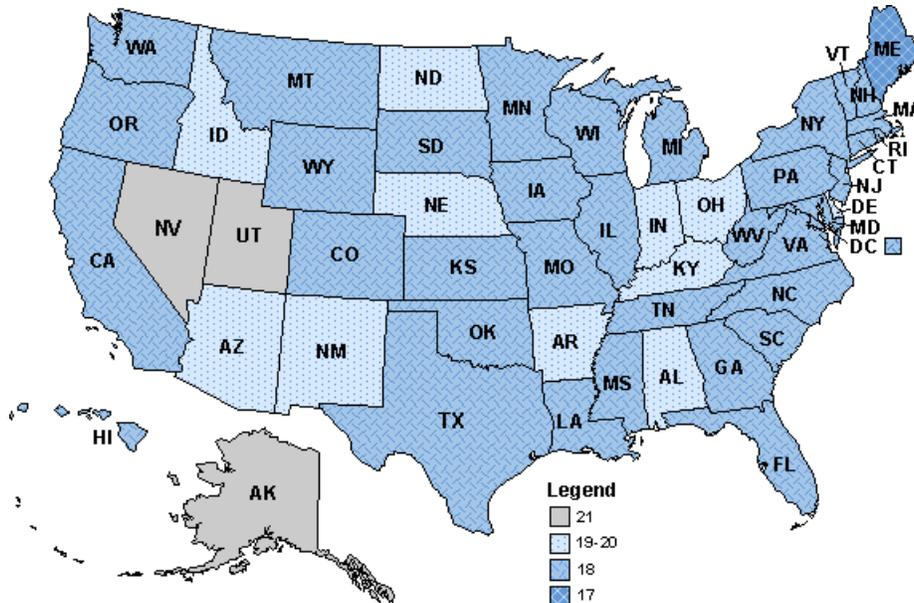
State laws setting a minimum age for employees who sell alcohol at off-premises establishments are described in the “Minimum Ages for Off-Premises Sellers” section of this Report.

Status of Age of Server Policies

Age of Servers

As of January 1, 2009, three States (Alaska, Nevada, and Utah) specify that on-premises alcohol servers must be 21 years of age or older. Only one State (Maine) allows 17-year-olds to be servers. Eleven States specify that servers be at least 19 or at least 20 years old, and the remaining 35 States and the District of Columbia allow 18-year-old servers.

Minimum Ages for On-Premises Servers as of January 1, 2009



Age of Bartenders

Minimum ages for bartenders are generally higher than for servers across the States. Eighteen States and the District of Columbia limit bartending to those aged 21 years or older. Four States (Arizona, Idaho, Kentucky, and Nebraska) specify that bartenders be at least 19 or at least 20 years old. Twenty-four States allow 18-year-olds to bartend, while only one State, Maine, allows 17-year-olds to be bartenders. Minimum ages for serving beer, wine, and distilled spirits are identical in all but three States: Maryland, North Carolina, and Ohio. Maryland and North Carolina require bartenders to be 21 years old to serve spirits, but permit 18-year-olds to dispense beer and wine; Ohio requires bartenders to be 21 years of age to serve wine and distilled spirits, but those 19 years of age and older are allowed to dispense beer.

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 stable over the last decade. Between 2003 and 2009, no State changed its minimum age requirement for bartenders, but one State (Arkansas) lowered the minimum age for servers from 21 to 19.

References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Minimum Ages for On-Premises Servers and Bartenders.” 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 page 396.

12. MINIMUM AGES FOR OFF-PREMISES SELLERS

Policy Description

Most States have laws that specify minimum ages for employees who sell alcoholic beverages in off-premises establishments such as liquor stores. A small number require sellers to be at least 21 years of age, but most States permit sellers to be younger. Some States allow any person to sell alcohol regardless of age. Other variations across States include minimum age requirements for conducting sales transactions with customers and allowing younger employees to stock coolers with alcohol or bag purchased alcohol. Age restrictions may also vary based on the type of off-premises establishment or type of alcohol being sold. For example, younger persons may be allowed to sell beer but not wine or distilled spirits. Younger persons may also be allowed to sell alcohol in grocery or convenience stores rather than liquor stores. Some States permit younger minimum selling ages only if a manager or supervisor is present.

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

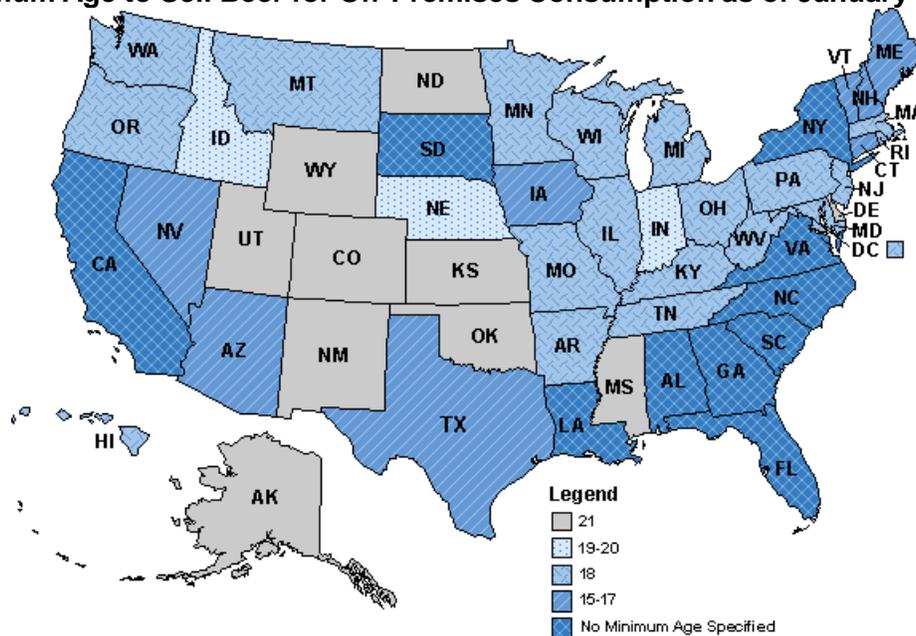
Status of Age of Seller Policies

Minimum Age of Sellers and Types of Beverages

Most jurisdictions specify the same minimum age for sellers of all types of alcoholic beverages. As of January 1, 2009, 10 States specify that off-premises sellers must be 21 years or older. Three States (Idaho, Indiana, and Nebraska) require off-premise sellers to be 19 years or older; 15 States and the District of Columbia have set the minimum age at 18. Four States (Arizona, Maine, Nevada, and New Hampshire) set the minimum age between 16 and 17 years. Four states (California, Georgia, Louisiana, and Virginia) do not specify any minimum age for sellers.

Minimum age requirements in the remaining 14 States vary by type of alcohol, with age requirements generally higher for the sale of distilled spirits and lower for beer. Florida, New York, and North Carolina set a minimum age of 18 for the sale of spirits and have no age minimum for beer or wine. Alabama and South Carolina have a minimum age of 21 years for the sale of spirits but no minimum for beer and wine. Vermont alone sets a minimum age for selling beer (16 years of age) but does not specify a minimum age for selling spirits.

Minimum Age to Sell Beer for Off-Premises Consumption as of January 1, 2009



Manager or Supervisor Presence

Thirteen 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 have been no changes in age of seller policies across States between 2003 and 2009.

References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Minimum Ages for Off-Premises Sellers.” 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 page 397.

13. DRAM SHOP LIABILITY

Policy Description

Dram shop liability refers to the civil liability faced by commercial alcohol servers for injuries or damages caused by their intoxicated or underage drinking patrons. The analysis in this Report is limited to alcohol service to minors. The typical factual scenario in legal cases arising from dram shop liability involves a licensed retail alcohol outlet that provides 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 serves two purposes: to create a disincentive for retailers to serve minors because of the risk of litigation leading to substantial monetary losses, and to allow parties injured as a result of an illegal sale to a minor to gain compensation from those responsible for the injury. Note that 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 have the authority to 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 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 in a State report 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:

- 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.
- Damages are not arbitrarily limited. If negligence is established, the plaintiff receives actual damages and can seek punitive damages.
- Plaintiffs must only establish that the minor was furnished alcohol and that the furnishing contributed to the injury without regard to the minor's intoxicated state at the time of sale.
- 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" in criminal cases).

A statutory liability designation indicates that the State has a dram shop statute. Two sub-variables can alter common-law rules, limiting the ability of the injured party to make claims:

- Limitations on damages: statutory caps on the total dollar amount that may be recovered through dram shop lawsuits.
- Limits on elements or standards of proof: legislative requirements that plaintiffs prove additional facts or meet a more rigorous standard of proof than would normally apply in common law. These can include:
 - Proof that the retailer knew the minor was underage or that the retailer intentionally or willfully served the minor.
 - Allowing recovery only if the minor was intoxicated at the time of sale or service.
 - Clear and convincing evidence or evidence beyond a reasonable doubt.

Such limitations can greatly diminish a plaintiff's chances of prevailing in a dram shop liability lawsuit, thus reducing the likelihood of a lawsuit being filed. Some States have enacted responsible beverage service (RBS) affirmative defenses, which provide that retailers can avoid liability if they can demonstrate that they implemented RBS programs and that the retailers' staff

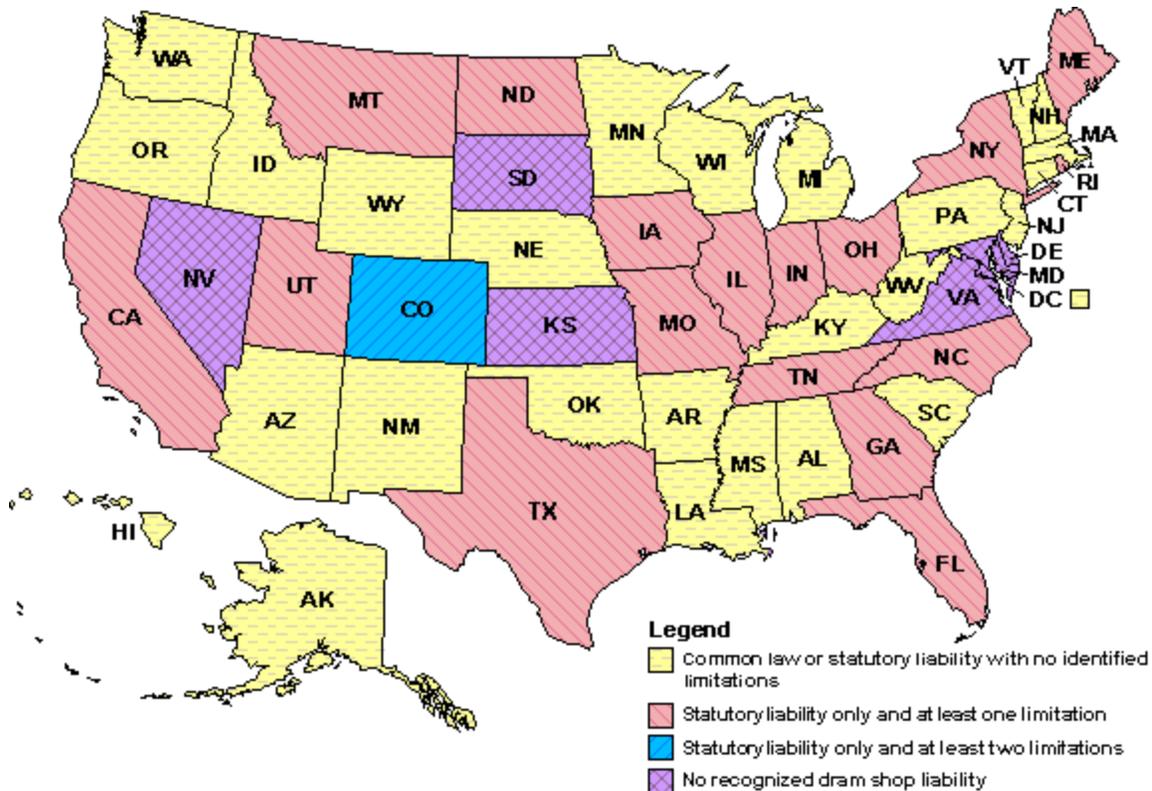
members were following RBS procedures at the time of the incident. See the RBS Training policy topic in this Report for additional information.

Dram shop liability is closely related to the furnishing alcohol to a minor policy, but the two topics are distinct. Retailers who provide 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.

Status of Dram Shop Liability in the 50 States

As of January 1, 2009, 45 jurisdictions impose dram shop liability as a result of statutory or common law or both. The District of Columbia and 26 States have either common law liability or statutory liability with no identified limitation; 9 jurisdictions limit damages that may be recovered from dram shop liability lawsuits; 11 require stricter standards for proof of wrongdoing than for usual negligence; and 2 States provide an RBS defense for alcohol outlets.

Common Law/Statutory Dram Shop Liability and Limitations Across the United States



Trends in Dram Shop Liability for Furnishing Alcohol to a Minor

No studies have reliably assessed trends in dram shop liability policies.

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 definitions of the variables for this policy, go to page 397. For further information and background see:

Holder, H., Janes, K., Mosher, J., Saltz, R., Spurr, S. & Wagenaar, A. (1992). Final report: Evaluation of dram shop liability and the reduction of alcohol-related traffic problems. National Highway Traffic Safety Administration DTNH22-87-R-07254.

Holder, H. et al. (1993). Alcoholic beverage server liability and the reduction of alcohol-involved problems. *Journal of Studies on Alcohol*, 54, 23-36.

Mosher, J. et al. (2009). *Liquor liability law*. Newark, NJ: LexisNexis.

14. SOCIAL HOST LIABILITY

Policy Description

Social host liability refers to the civil liability faced by noncommercial alcohol servers for injuries or damages caused by their intoxicated or underage drinking guests. The analysis in this Report 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 provides 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.)

Social host liability serves two purposes: It creates disincentives for social hosts to serve minors due to the risk of litigation and potentially substantial monetary losses, and 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 provided 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 serve 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 in a State Report 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:

- 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.
- Damages are not arbitrarily limited. If successful in establishing negligence, plaintiffs receive actual damages and have the possibility of seeking punitive damages.
- Plaintiffs must only establish 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.
- 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" in criminal cases).

A statutory liability designation indicates that a State has a social host liability statute. Two subvariables alter the common law rules listed above, serving as limitations on the ability of injured parties to make claims:

- Limitations on damages: statutory caps on the total dollar amount that may be recovered through social host lawsuits.
- Limits on elements or standards of proof: legislative requirements that plaintiffs prove additional facts or meet a more rigorous standard of proof than would normally apply in common law. These can include:
 - Proof that hosts had knowledge that minors were underage or proof that social hosts intentionally or willfully served minors.
 - Allowing recovery only if minors were intoxicated at the time of service.
 - Clear and convincing evidence or evidence beyond a reasonable doubt.

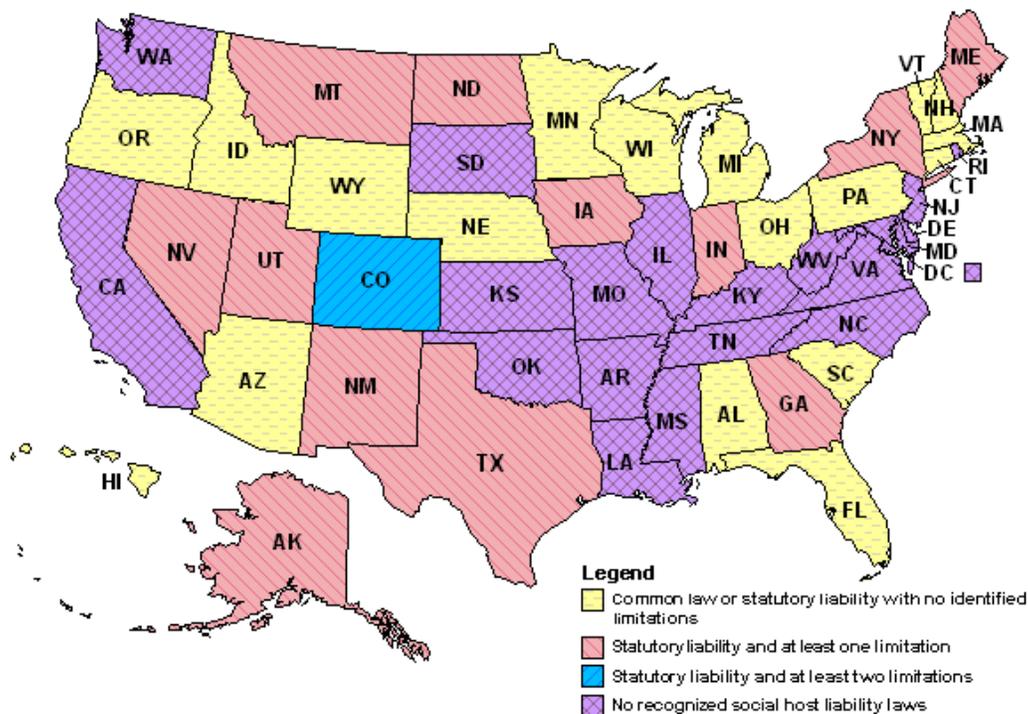
Such limitations can greatly diminish plaintiffs' chances of prevailing in a social host liability lawsuit, thus reducing the likelihood of a lawsuit being filed.

Social host liability is closely related to the furnishing alcohol to a minor and host party policy topics, but the three topics are distinct. Social hosts who provide alcohol to minors or allow underage drinking parties on their property may face fines or other punishment imposed by the State as well as social host liability lawsuits filed by injured parties stemming from the same incident. 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.

Status of Social Host Liability

As of January 1, 2009, 31 jurisdictions impose social host liability through statute, common law, or both. Eighteen States have either common law liability or statutory social host liability with no identified limitations. Six jurisdictions have limitations on the damages that may be recovered under social host liability and nine jurisdictions require standards of proof of wrongdoing that are stricter than usual negligence standards.

Social Host Liability Across U.S. Jurisdictions as of January 1, 2009



Trends in Social Host Liability for Furnishing Alcohol to a Minor

No studies have reliably assessed trends in social host liability policies. A fairly new concept, social host liability was not generally recognized by courts or legislatures until the 1980s.

References and Further Information

Legal research data collection for this topic is planned and managed by SAMHSA and conducted under contract with The CDM Group, Inc. To see definitions of the variables for this policy, go to page 398. For additional information and background, see:

Mosher, J. et al. (2009). *Liquor liability law*. Newark, NJ: LexisNexis.

Stout, E., Sloan, A, Liang, L., & Davies, H. (2000). Reducing harmful alcohol-related behaviors: Effective regulatory methods. *Journal of Studies on Alcohol*, 61, 402–412.

15. 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 part laws often are closely linked to laws prohibiting the furnishing alcohol to minors (analyzed elsewhere in this Report), although laws that prohibit the hosting of 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: furnishing alcohol to a minor and 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.

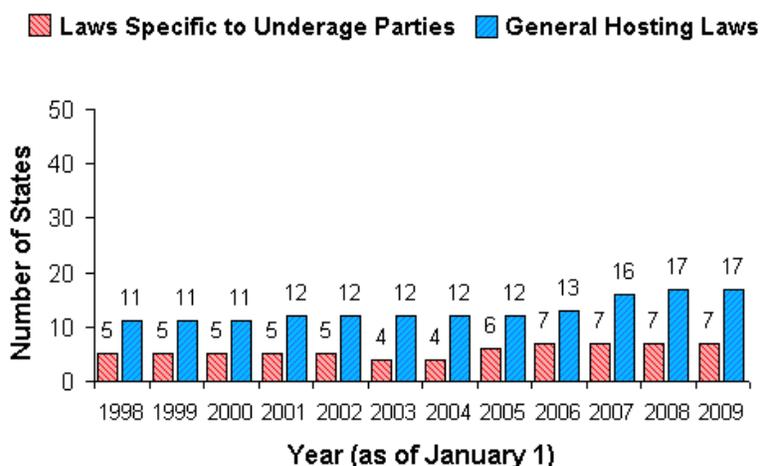
Separately, social host liability (analyzed elsewhere in this Report) involves an action by a private party seeking monetary damages for injuries that result from permitting underage drinking on the host's premises.

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 variables, including:

- 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.
- Underage drinking on any of the host's properties may be included, or the laws may restrict their application to residences, out-buildings, and/or outdoor areas.

Number of States With Prohibitions Against Hosting Underage Drinking Parties, January 1, 1998 Through January 1, 2009



References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Prohibitions Against Hosting Underage Drinking Parties.” 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 page 399.

16. DIRECT SALES/SHIPMENTS FROM PRODUCERS TO CONSUMERS (INTERNET SALES)

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 proscription was to ensure that the pre-Prohibition-era tied house system (under which producers owned and/or controlled retail outlets directly) 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 as a result of these concerns was the establishment of a three-tier production and distribution system with separate production, wholesaling, and retail elements. Consequently, producers must distribute products through wholesalers rather than selling directly to retailers or consumers; wholesales must purchase from producers; and consumers must purchase from retailers.

Modern marketing practices, particularly Internet sales that link producers directly to consumers, have led to many States creating laws with exceptions to general mandates that alcohol producers distribute their products 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 arguing that State law unfairly discriminates between in-State and out-of-State producers. They have contended that such processes violate the U.S. Constitution's Interstate Commerce Clause by allowing in-State producers to ship directly to consumers, but barring out-of-State producers from doing so.³⁰

One central concern emerging from this controversy involves 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. In response to this concern, several jurisdictions that permit direct sales/shipments have included provisions to deter youth access. These may include requirements that:

- Consumers have face-to-face transactions at producer's places of business (and show valid age identification) before any future shipments to consumers can be made.³¹
- Shippers and/or deliverers verify recipient age, usually by checking recipients' identification.
- Producers/shippers and deliverers obtain permits or licenses or be approved by the State.
- Producers/shippers and deliverers maintain records that must either be reported to State officials or be open for inspection to verify recipients of shipments.
- Direct shipment package labels include statements that package contains alcohol and/or that recipient must be at least 21 years of age.

State laws also vary regarding the types of alcoholic beverages (beer, wine, and distilled spirits) that producers are allowed to sell directly and ship to consumers. This Report does not include direct sales/shipment requirements not related to preventing underage sales.³²

Status of Direct Sales/Shipment Policies

As of January 1, 2009, 35 States and the District of Columbia permit direct sales/shipments from producers to consumers, and 15 prohibit such transactions. One State (Indiana) requires face-to-face transactions at producers' places of business (and verification of valid age identification) before shipments to the consumer can be made. Of the 35 States permitting direct sales or shipments, 7 require shippers to verify purchaser age, 17 require deliverers to verify recipient age, and 4 require age verification by both shippers and deliverers. Fifteen States and the District of Columbia do not require any age verification.

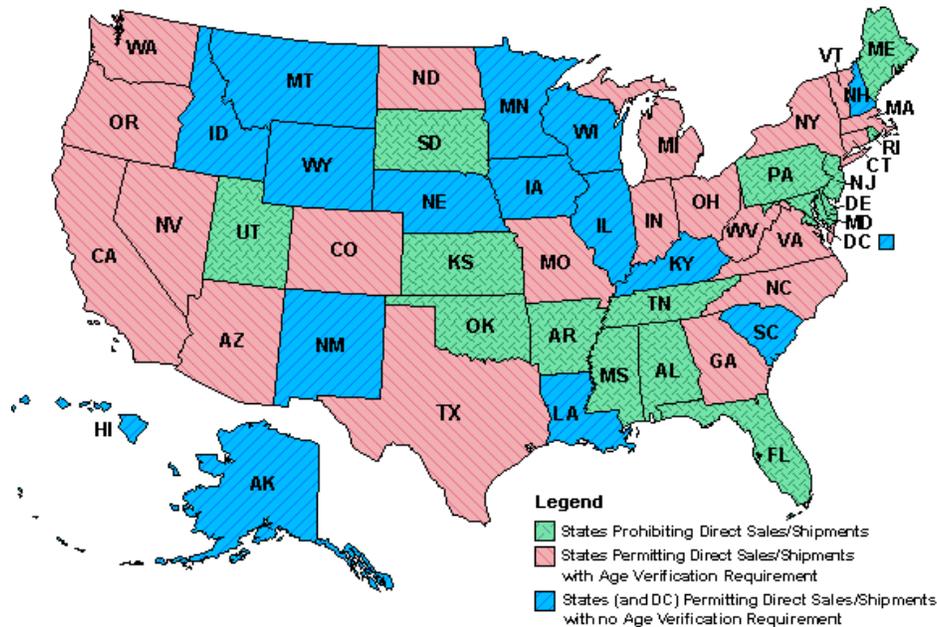
Labels stating that packages can only be received by persons over the age of 21 years are required by 27 States, 8 require labels stating that packages contains alcohol, and 5 have no labeling requirements related to underage drinking.

³⁰ See, e.g., *Granholm v. Heald*, 544 U.S. 410, 125 S.Ct. 1885 (2005).

³¹ Laws that require face-to-face transactions for all sales prior to delivery are treated as prohibitions on direct sales/shipments.

³² These include caps on 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).

Direct Sales/Shipment Policies and Age Verification Requirements



Trends in Direct Sales/Shipments Policies

No studies have reliably assessed trends in direct sales/shipment policies.

References and Further Information

To see definitions of the variables for this policy, go to page 400.

Jurkiewicz, C. and M. Painter (eds.) (2008). *Social and economic control of alcohol: The 21st Amendment in the 21st century*. New York, NY: CRC Press.

Moramarto, M. *The Twenty-First Amendment, Granholm, and the future of the three-tier system*. Working Paper, Social Science Research Network, December 13, 2008. Retrieved February 10, 2009, from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1340198

Norton, E. (2006). The Twenty-First Amendment in the twenty-first century: Reconsidering State liquor controls in light of *Granholm v. Heald*. *Ohio State Law Journal*, 67, 1465-1494.

17. 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 (2- to 8-gallon minimum depending on the State). 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/or tappers are returned with identification numbers intact. These deposits create an incentive for the purchaser to keep track of the whereabouts of the keg and a financial penalty 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/or 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

The District of Columbia and 30 States require keg registration; 19 States do not require that kegs be registered. Minimum keg sizes subject to keg registration requirements range from 2 to 7.75 gallons. Utah alone prohibits keg sales altogether, making a keg registration law irrelevant.

Prohibited Acts

Eleven States prohibit both the possession of unregistered kegs and the destruction of keg labels. Six States prohibit only the possession of unregistered kegs, seven prohibit only the destruction of keg labels, and six States and the District of Columbia prohibit neither act.

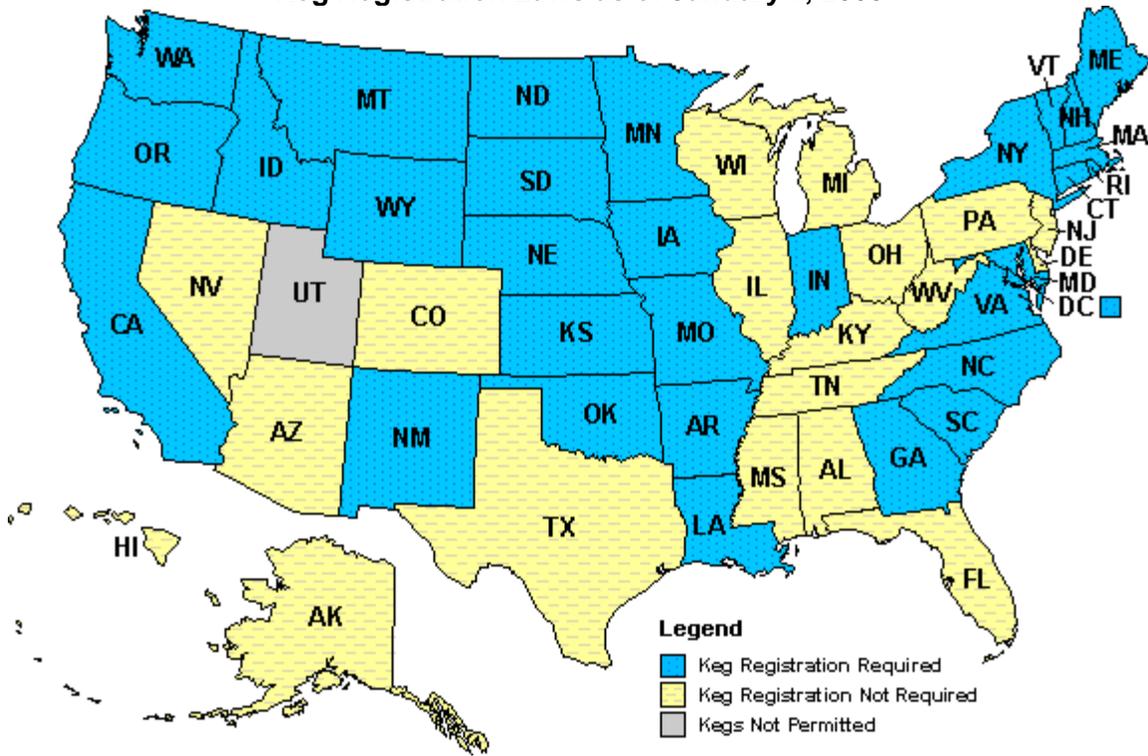
Purchaser Information Collected

All 31 jurisdictions with keg registration laws require retailers to collect some form of purchasers' information. Of these, 27 require purchasers to provide a driver's licenses or other government-issued identification. Six jurisdictions (District of Columbia, Georgia, North Carolina, Oregon, Virginia, and Washington) require purchasers to provide the address at which the keg will be consumed.

Warning Information to Purchaser

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 concerning the violation of any laws related to keg registration. Fourteen States and the District of Columbia specify "active" warnings (requiring an action on the part of the purchaser, such as signing a document) and nine States specify "passive" warnings (requiring no action on the part of the purchaser). Seven States do not require that any warning information be given to purchasers.

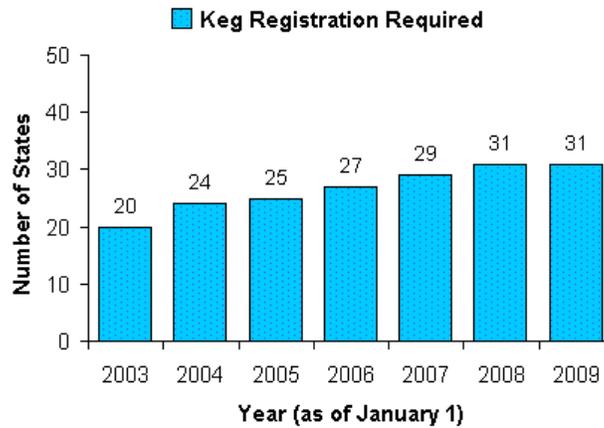
Keg Registration Laws as of January 1, 2009



Trends in Keg Registration Policies

The number of States enacting keg registration laws has risen steadily since 2003, with an increase from 20 to 31 jurisdictions.

Number of States With Keg Registration Laws, January 1, 2003 Through January 1, 2009



References and Further Information

All data for this policy were obtained from the APIS at <http://www.alcoholpolicy.niaaa.nih.gov>. Follow links to the policy entitled “Keg Registration.” 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 page 401.