

Laws Addressing Minors in Possession of Alcohol

1. Underage Possession, Internal Possession, and Consumption *(data current as of 1/1/12)*

Policy Description

As of January 1, 2012, all U.S. states and the District of Columbia prohibit possession of alcoholic beverages (with certain exceptions) by those under age 21. In addition, most but not all jurisdictions have statutes that specifically prohibit consumption of alcoholic beverages by those under age 21.

In recent years, a number of jurisdictions have passed laws prohibiting “internal possession” of alcohol by persons less than 21 years old. These provisions typically require evidence of alcohol in the minor’s body, but do not require any specific evidence of possession or consumption. Internal possession laws are especially useful to law enforcement in making arrests or issuing citations when breaking up underage drinking parties. Internal possession laws allow officers to bring charges against underage persons who are neither holding nor drinking alcoholic beverages in the presence of law enforcement officers. As with laws prohibiting underage possession and consumption, jurisdictions that prohibit internal possession may apply various statutory exceptions to these provisions.

Although all jurisdictions prohibit possession of alcohol by minors, some jurisdictions do not specifically prohibit underage alcohol consumption. In addition, some jurisdictions that do prohibit underage consumption allow different exceptions for consumption than those that apply to underage possession. Jurisdictions that may prohibit underage possession and/or consumption may or may not address the issue of internal possession.

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

Some jurisdictions allow exceptions to possession, consumption, or internal possession prohibitions on private property. Jurisdictions vary in the extent of the private property exception, which may extend to all private locations, private residences only, or in the home of a parent or guardian only. In some, a location exception is conditional on the presence and/or consent of a parent, legal guardian, or spouse.

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

Status of Underage Possession Policies

As of January 1, 2012, all 50 states and the District of Columbia prohibit possession of alcoholic beverages by those under age 21.

Twenty-six jurisdictions have some type of family exception, 21 have some type of location exception, and 19 have neither (see Exhibit 4.3.1). Four of these limit the location to the parent/guardian's residence, eight pertain to any private residence, and nine concern any private location.

Trends in Underage Possession Policies

During the period between 1998 and 2012, the number of jurisdictions with family exceptions rose from 23 to 26, the number with location exceptions rose from 20 to 21, and the number of jurisdictions with neither exception decreased from 21 to 19 (see Exhibit 4.3.2).

Status of Underage Consumption Policies

As of January 1, 2012, 35 jurisdictions prohibit consumption of alcoholic beverages by those under age 21. Of those, 17 permit family exceptions to the law, 13 permit location exceptions, and 15 permit neither type of exception (see Exhibit 4.3.3). Seven states (Montana, Ohio, South Dakota, Texas, Washington, Wisconsin, and Wyoming) only permit family exceptions; three states (Hawaii, New Jersey, and Nebraska) permit only location exceptions; 10 states had both types of exceptions, with 9 of the states permitting underage consumption only if both family and location criteria are met.

Exhibit 4.3.1: Exceptions to Minimum Age of 21 for Possession of Alcohol as of January 1, 2012

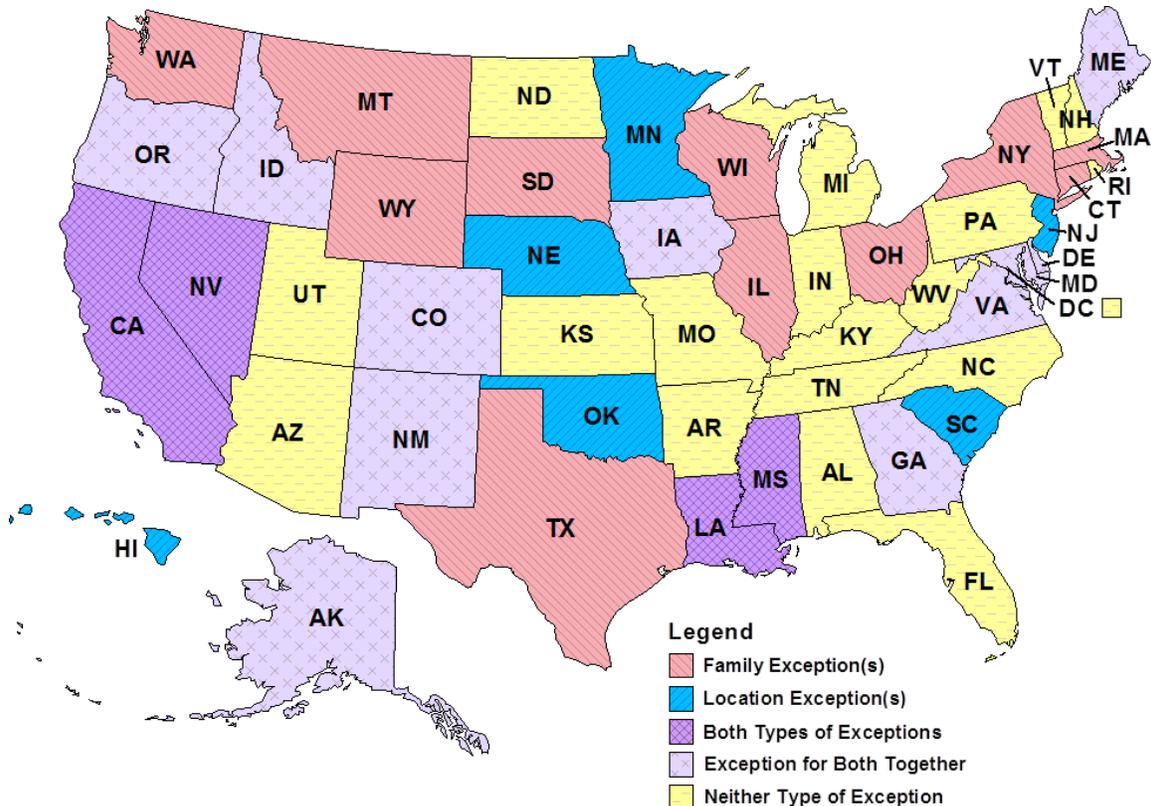


Exhibit 4.3.2: Number of States with Family and Location Exceptions to Minimum Age of 21 for Possession of Alcohol, January 1, 1998, through January 1, 2012

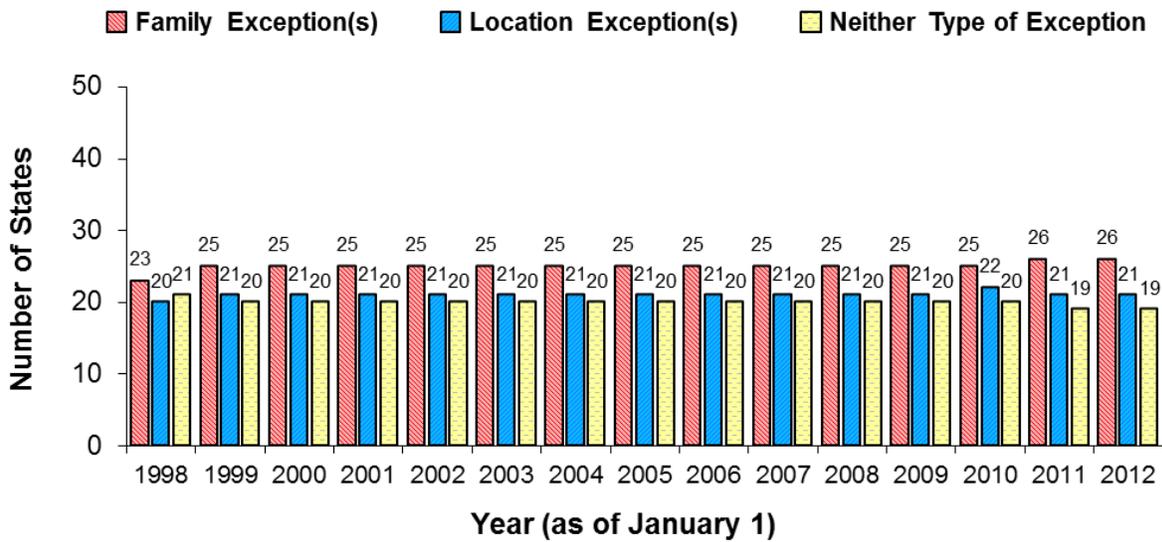
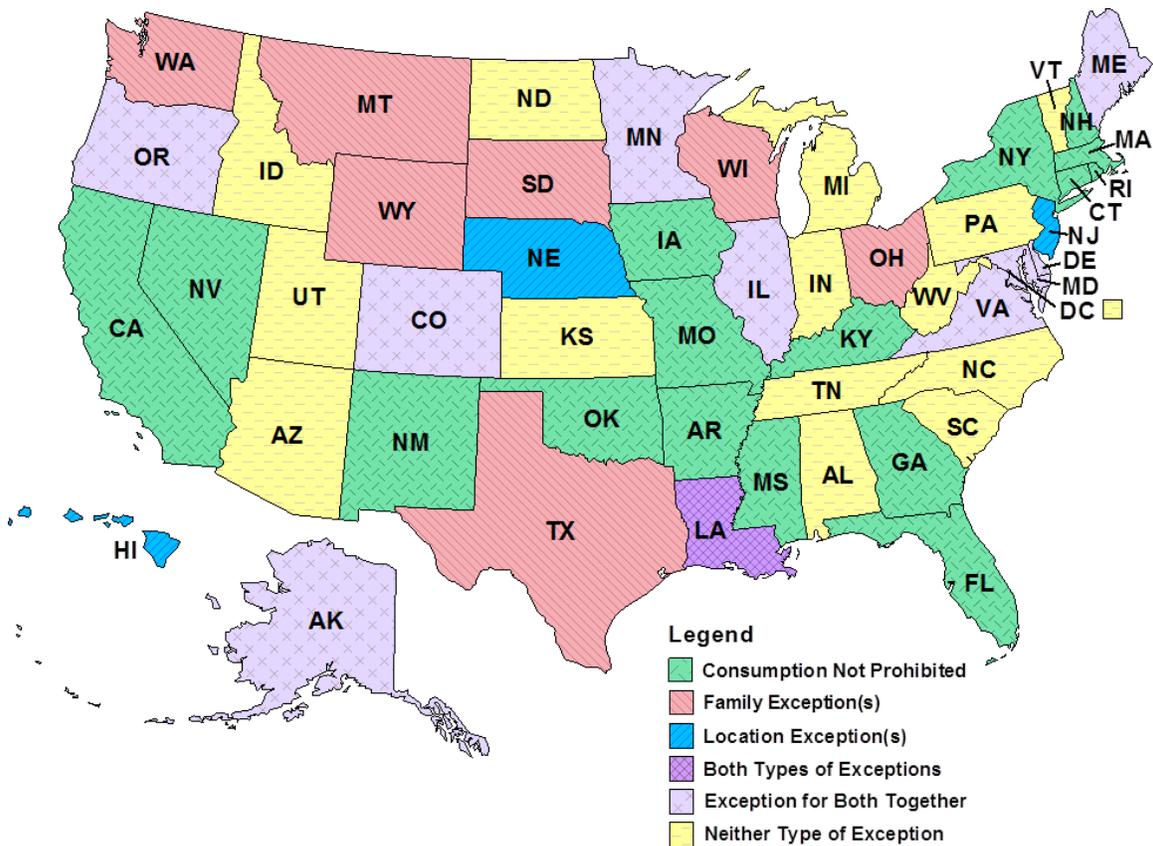


Exhibit 4.3.3: Exceptions to Minimum Age of 21 for Consumption of Alcohol as of January 1, 2012



Trends in Underage Consumption Policies

As Exhibit 4.3.4 illustrates, during the period between 1998 and 2012, the number of jurisdictions that did not prohibit underage consumption decreased from 24 to 17. Location exceptions rose from 9 to 13; family exceptions rose from 13 to 17; and the number of jurisdictions with neither type of exception rose from 13 to 14.

Status of Underage Internal Possession Policies

As of January 1, 2012, nine states prohibit internal possession of alcoholic beverages for anyone under age 21 (see Exhibit 4.3.5). Of the nine 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. Wyoming makes exceptions for situations in which parents, guardians, and spouses are present.

Trends in Underage Internal Possession Policies

As Exhibit 4.3.6 illustrates, during the period between 1998 and 2012, the number of states that prohibit underage internal possession has grown steadily from two to nine. The most recent state to enact a prohibition on internal possession is Wyoming.

Exhibit 4.3.4: Number of States with Family and Location Exceptions to Minimum Age of 21 for Consumption of Alcohol, January 1, 1998, through January 1, 2012

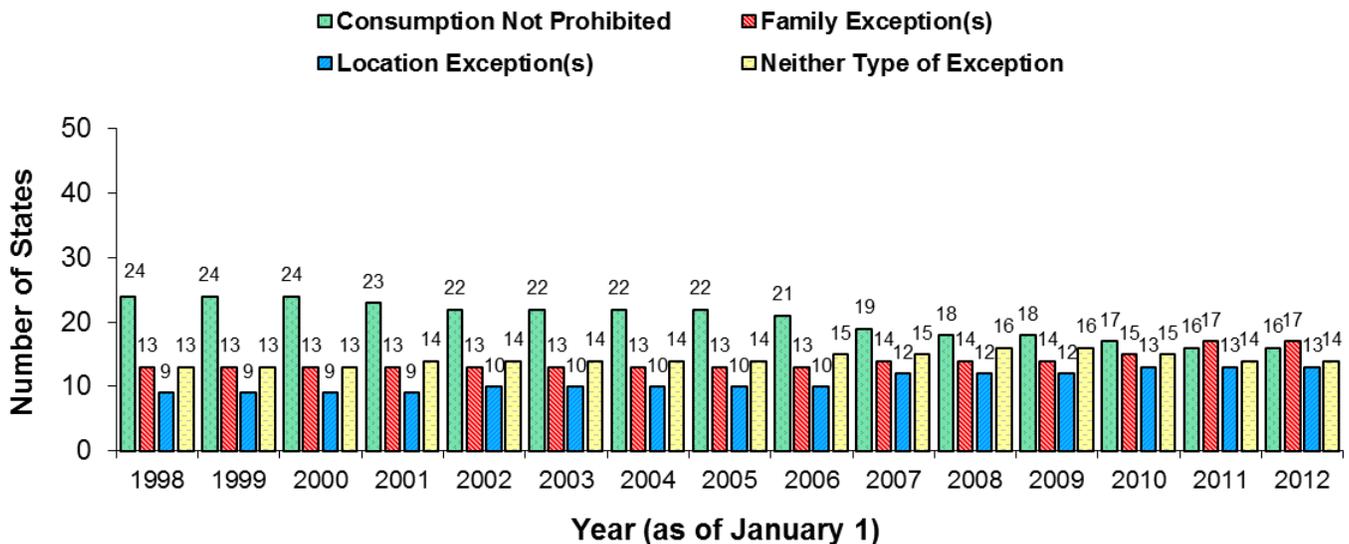


Exhibit 4.3.5: Prohibition of Internal Possession of Alcohol by Persons Under Age 21 as of January 1, 2012

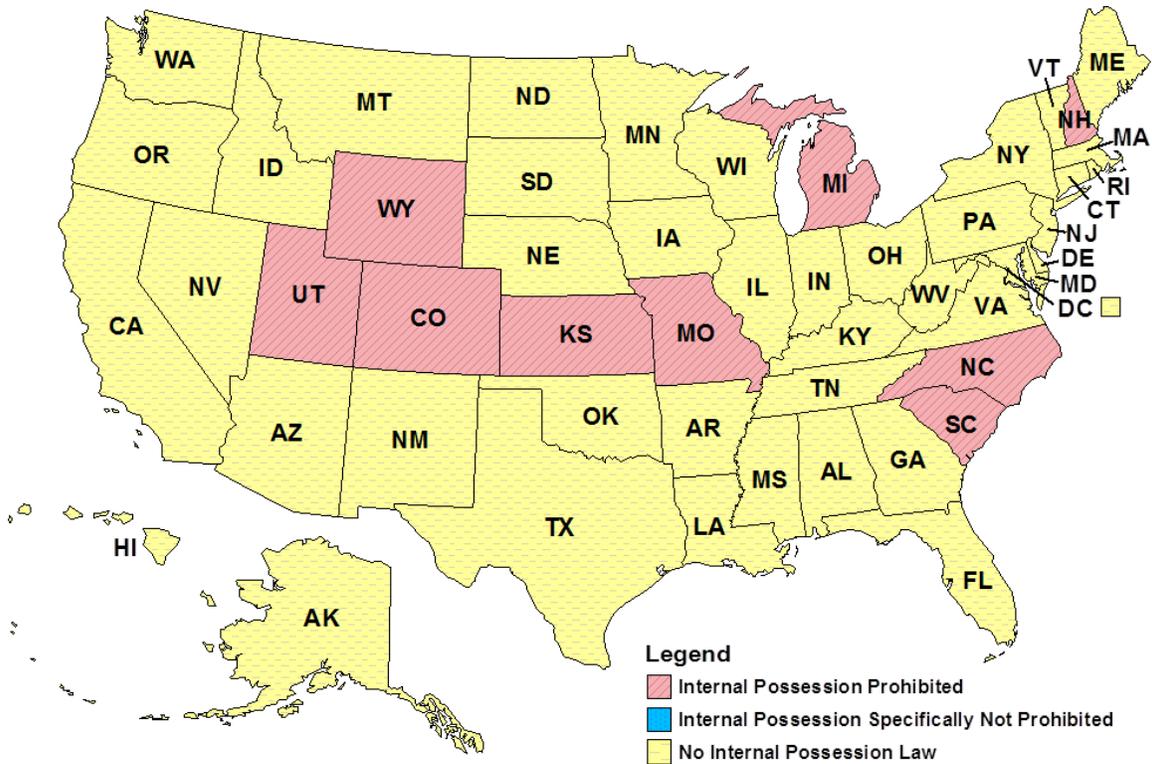
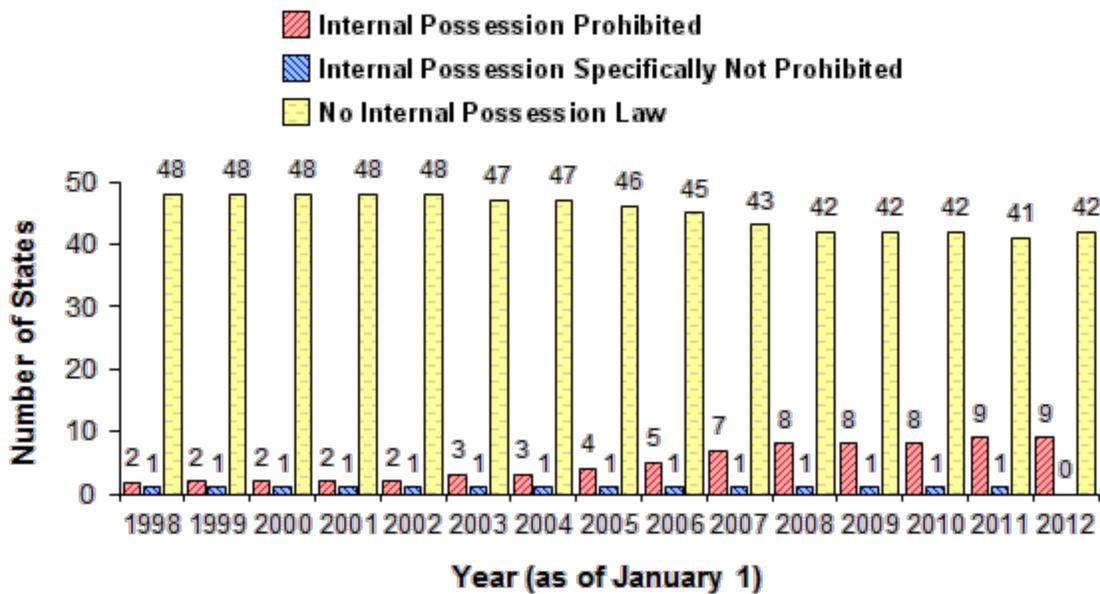


Exhibit 4.3.6: Distribution of States with Laws Prohibiting Internal Possession of Alcohol by Persons Under 21 Years of Age, January 1, 1998, through January 1, 2012



References and Further Information

All data for Underage Possession, Consumption, and Internal Possession policy topics were obtained from the Alcohol Policy Information System (APIS) at www.alcoholpolicy.niaaa.nih.gov. Follow links to the policy entitled “Underage Possession/Consumption/Internal Possession of Alcohol.” APIS provides further descriptions of this set of policies and its variables, details regarding state policies, and a review of the limitations associated with the reported data. To see definitions of the variables for this policy, go to Appendix B.