

Policy Summary

Penalty Guidelines for Sales/Service to Minors

This policy summary is excerpted from:

The 2013 Report to Congress on the Prevention and Reduction of Underage Drinking
submitted to Congress by The U.S. Department of Health and Human Services.

To obtain more information and a copy of the full Report to Congress go to:

<https://www.stopalcoholabuse.gov>

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 substantial fines and temporary suspension of license for first offenses and increasingly stronger penalties thereafter, leading to permanent revocation of license after three offenses.”

States typically include administrative penalties in their statutory scheme prohibiting sales to minors. The penalty provisions are usually very broad, allowing for severe penalties but delegating responsibility for determining actual penalties in particular cases to the ABC agencies. Penalties may include warning letters, fines, license suspensions, a combination of fines and suspensions, or license revocation. The agencies may consider both mitigating and aggravating circumstances as well the number of violations within a given time period, with repeat offenders usually receiving more severe sanctions.

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

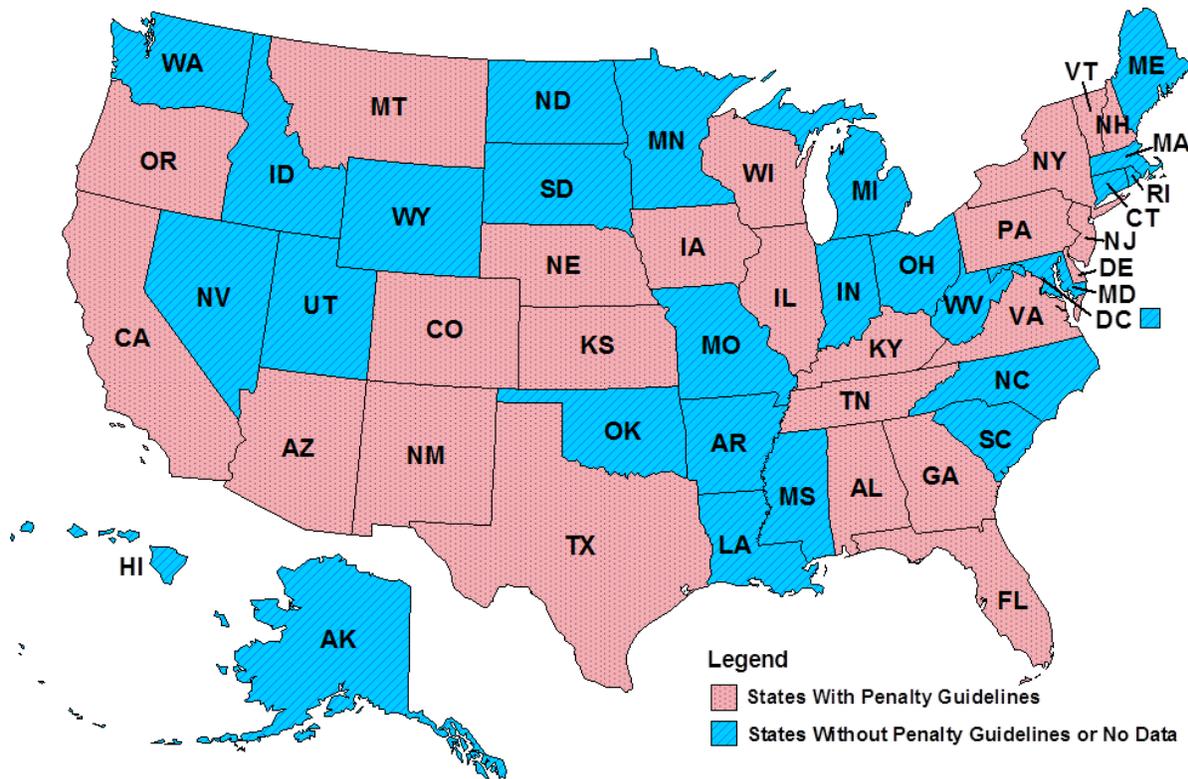
Penalty guidelines that establish firm, relatively severe penalties (particularly for repeat offenders) can increase the deterrent effect of the policy and its enforcement and can increase licensees’ awareness of the risks associated with violations.

Status of Penalty Guidelines for Sales/Service to Minors

At least 24 jurisdictions have defined administrative penalty guidelines for licensees who sell alcohol to an underage youth (see Exhibit 4.3.20). The remaining 27 states either do not have penalty guidelines or do not make them readily available to the public. The guidelines may be based on statute, regulations, and/or internal policies developed by the agency.

The guidelines vary widely across states. For example, two states issue warning letters for first offenses if there are no aggravating circumstances. Other states impose fines and/or suspensions. Minimum fines for a first offense range from \$250 to \$5,000, with most states in the \$500 to \$1,000 range. Fines are typically in lieu of suspensions for first offenses, with some states allowing licensees to choose between the two sanctions. Florida has the strictest first offense guidelines: it imposes a \$1,000 fine and a 7-day suspension. New York imposes a \$5,000 penalty if the minor served is under age 19.

Exhibit 4.3.20: States with Penalty Guidelines as of January 1, 2012



Fines increase to as much as \$20,000 for subsequent offenses (in California), with license suspension days increasing to as many as 72 days for subsequent violations (Kentucky). Three states have adopted the IOM recommendation that licenses should be revoked after three offenses (California, Florida, and New Mexico), and an additional six states revoke licenses for a fourth offense. The time periods for defining repeat offenses range from 1 to 5 years.

States also vary in the specificity of their guidelines. Many states list a set penalty or a relatively limited range of penalties. Pennsylvania’s guideline, on the other hand, provides for penalties ranging from a \$1,000 fine to license revocation for first offenses.

See Chapter 4.4, the Cross-State Survey Report, for a review of penalties actually imposed by states for selling to and serving minors.

References and Further Information

Legal research and data collection for this topic are 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 Appendix B. For further information and background see:

National Research Council, Institute of Medicine. (2003). *Reducing underage drinking: A collective responsibility*. Washington, DC: National Academies Press.

Ross, H.L. (1992). *Confronting drunk driving: Social policy for saving lives*. Binghamton, NY: Vail-Ballou Press.