

## State Report

# New York

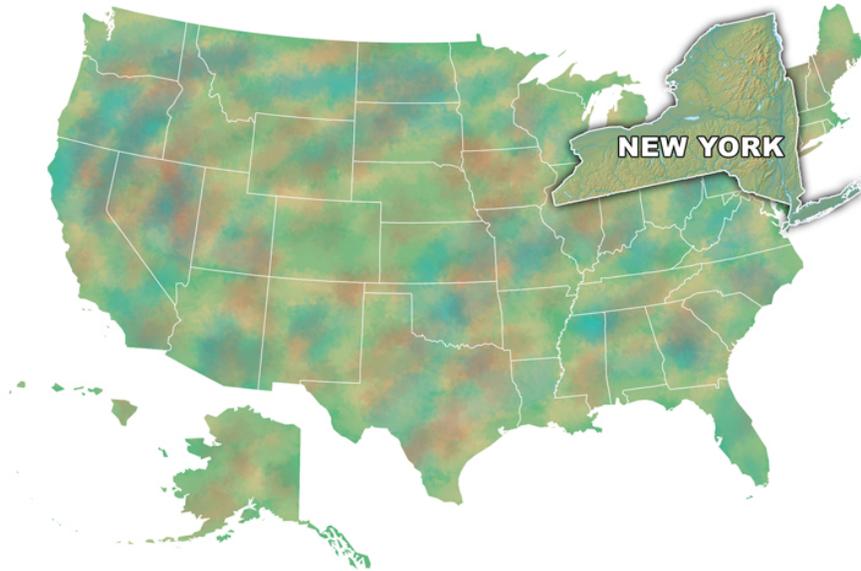
This state report is excerpted from:

**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>



# New York

## State Profile and Underage Drinking Facts\*

**State Population: 19,465,197**  
**Population Ages 12–20: 2,403,000**

	Percentage	Number
<b>Ages 12–20</b>		
Past-Month Alcohol Use	31.4	755,000
Past-Month Binge Alcohol Use	19.4	465,000
<b>Ages 12–14</b>		
Past-Month Alcohol Use	5.2	38,000
Past-Month Binge Alcohol Use	1.9	14,000
<b>Ages 15–17</b>		
Past-Month Alcohol Use	28.1	223,000
Past-Month Binge Alcohol Use	16.7	133,000
<b>Ages 18–20</b>		
Past-Month Alcohol Use	55.5	494,000
Past-Month Binge Alcohol Use	35.9	319,000
<b>Alcohol-Attributable Deaths (under 21)</b>		197
<b>Years of Potential Life Lost (under 21)</b>		11,764
	<b>Percentage of All Traffic Fatalities</b>	<b>Number</b>
<b>Traffic Fatalities, 15- to 20-Year-Old Drivers with BAC &gt; 0.01</b>	32.0	50

\* See Appendix C for data sources.

## Laws Addressing Minors in Possession of Alcohol

### Underage Possession of Alcohol

Possession is prohibited with the following exception(s):

- Parent/guardian

### Underage Consumption of Alcohol

Consumption is not explicitly prohibited.

### Internal Possession by Minors

Internal possession is not explicitly prohibited.

### Underage Purchase of Alcohol

Purchase is NOT prohibited and there is no specific allowance for youth purchase for law enforcement purposes.

*Note:* New York does not have a statute that specifically prohibits purchase, but the state does prohibit purchasing or attempting to purchase alcohol by using false evidence of age.

### False Identification for Obtaining Alcohol

#### *Provision(s) Targeting Minors*

- Use of a false ID to obtain alcohol is a criminal offense.
- Penalty may include driver's license suspension through a judicial procedure.

#### *Provisions Targeting Retailers*

- The state provides incentives to retailers who use electronic scanners that read birthdate and other information digitally encoded on valid identification cards.
- Licenses for drivers under age 21 are easily distinguishable from those for drivers age 21 and older.
- Specific affirmative defense—the retailer inspected the false ID and came to a reasonable conclusion based on its appearance that it was valid.

## Laws Targeting Underage Drinking and Driving

### BAC Limits: Youth (Underage Operators of Noncommercial Motor Vehicles)

- BAC limit: 0.02
- BAC level at or above the limit is per se (conclusive) evidence of a violation
- Applies to drivers under age 21

### Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose Laws”)

No use/lose law

### Graduated Driver's License

#### *Learner Stage*

- Minimum entry age: 16
- Minimum learner-stage period: 6 months

- Minimum supervised driving requirement: 50 hours—15 of which must be at night

### ***Intermediate Stage***

- Minimum age: 16 years, 6 months
- Unsupervised night driving
  - Prohibited after: 9 p.m.
  - Primary enforcement of the night-driving rule
- Passenger restrictions exist: No more than one unrelated passenger younger than 21, unless accompanied by parent or instructor
  - Primary enforcement of the passenger-restriction rule

### ***License Stage***

- Minimum age to lift restrictions: 17

*Note:* New York has certain regional restrictions that apply to the five boroughs of New York City and to Nassau, Suffolk, Westchester, Rockland, and Putnam counties. These restrictions are not provided here.

The New York DMV issues a limited-use junior license to a junior driver (under 18) who passes a road test during the first 6 months (i.e., within the mandatory 6-month holding period) after the learner permit was issued. A limited-use junior license allows the junior driver to drive without supervision between 5 a.m. and 9 p.m. and within specific geographical boundaries for purposes related to school, employment, medical care, or child care. This would then convert to an intermediate-stage license at the end of the mandatory 6-month holding period.

## **Laws Targeting Alcohol Suppliers**

### **Furnishing Alcohol to Minors**

Furnishing is prohibited—no explicit exceptions noted in the law.

### **Compliance Check Protocols**

#### ***Age of Decoy***

- Minimum: 18
- Maximum: 20.5

#### ***Appearance Requirements***

- Should look age-appropriate

#### ***ID Possession***

- Discretionary

#### ***Verbal Exaggeration of Age***

- Permitted

#### ***Decoy Training***

- Mandated

### **Penalty Guidelines for Sales to Minors**

- Time period/conditions: Five years

- First offense: \$3,000 if the minor was age 19 or older; \$3,500 if the minor was at least 16 years old but less than 19 years old; and \$5,000 if the minor was less than 16 years old.

*Note:* If the licensee has been licensed for at least 5 years, the proposed penalty may be reduced by \$500. If the licensee is a package or wine store, the proposed penalty must be increased by \$500.

## **Responsible Beverage Service**

### ***Voluntary Beverage Service Training***

- Applies to both on-sale and off-sale establishments.
- The law does not specify new or existing outlets.

### ***Incentive for Training***

- Mitigation of fines or other administrative penalties for sales to minors

*Note:* In certain proceedings to revoke, cancel, or suspend a retail license based on furnishing to a minor, it can be an affirmative defense that at the time of the violation the person who committed the alleged violation held a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program, and that the licensee had diligently implemented and complied with all of the provisions of the approved training program. The licensee is required to prove each element of the affirmative defense by a preponderance of the credible evidence.

## **Minimum Ages for Off-Premises Sellers**

- Beer: Not specified
- Wine: Not specified
- Spirits: 18

### ***Condition(s) That Must Be Met in order for an Underage Person To Sell Alcoholic Beverages***

- Manager/supervisor is present.

## **Minimum Ages for On-Premises Sellers**

- Beer: 18 for both servers and bartenders
- Wine: 18 for both servers and bartenders
- Spirits: 18 for both servers and bartenders

## **Distance Limitations for New Alcohol Outlets Near Universities and Schools**

### ***Colleges and Universities***

No distance limitation

### ***Primary and Secondary Schools***

Prohibitions against outlet siting:

- Off-premises outlets: Yes—within 200 feet
- On-premises outlets: Yes—within 200 feet
- Alcohol products: Wine, spirits

*Note:* Exceptions are (1) club affiliated with such school, if school has no objection; (2) certain sections in county of Ulster, borough of Manhattan, and town of Bainbridge; and (3) special

retail liquor licenses for theaters where availability of alcohol is not advertised in manner visible from street.

### **Dram Shop Liability**

Statutory liability exists.

### **Social Host Liability Laws**

Statutory liability exists.

### **Host Party Laws**

No state-imposed liability for hosting underage drinking parties

### **Retailer Interstate Shipments of Alcohol**

Retailer interstate shipments are prohibited for all types of beverages.

### **Direct Sales/Shipments of Alcohol by Producers**

Direct sales/shipments from producers to consumers are permitted for wine with the following restrictions:

#### ***Age Verification Requirements***

- Common carrier must verify age of recipient.

#### ***State Approval/Permit Requirements***

- Producer/shipper must obtain state permit.
- State must approve common carrier.

#### ***Reporting Requirements***

- Producer must record/report purchaser's name.

#### ***Shipping Label Statement Requirements***

- Contains alcohol
- Recipient must be 21

*Note:* Direct sales/shipments permitted only for wineries in states that afford New York wineries a reciprocal shipping privilege.

### **Keg Registration**

Registration is not required.

## **Alcohol Pricing Policies**

### **Home Delivery**

- Beer: Permitted—beer deliveries limited to 5 gallons. Delivery vehicles must be clearly marked.
- Wine: Permitted—delivery vehicles must be clearly marked.
- Spirits: Permitted—delivery vehicles must be clearly marked.

## **Alcohol Tax**

### ***Beer (5 percent alcohol)***

- Specific excise tax: \$0.14 per gallon

### ***Wine (12 percent alcohol)***

- Specific excise tax: \$0.30 per gallon

### ***Spirits (40 percent alcohol)***

- Specific excise tax: \$6.44 per gallon—\$2.54 per gallon for alcohol content of 24 percent alcohol by volume (ABV) or less.

## **Drink Specials**

- Free beverages: Prohibited
- Multiple servings at one time: Not prohibited
- Multiple servings for same price as single serving: Prohibited
- Reduced price at specified day or time: Not prohibited
- Unlimited beverages: Prohibited
- Increased volume: Not prohibited

## **Wholesale Pricing**

Pricing restrictions exist.

### ***Beer (5 percent alcohol)***

- Retailer credit: Restricted—25 days maximum

### ***Wine (12 percent alcohol)***

- Price posting requirements: Post and hold—1 month minimum
- Retailer credit: Restricted—30 days maximum; payment is required from certain retail beer and wine licensees (i.e., those who purchase beer and/or wine for resale for on- and off-premises consumption but not including licensees who sell liquor and/or wine for off-premises consumption) within 25 days.

### ***Spirits (40 percent alcohol)***

- Price posting requirements: Post and hold—1 month minimum
- Retailer credit: Restricted—30 days maximum

## New York State Survey Responses

<b>State Agency Information</b>	
<i>Agency with primary responsibility for enforcing underage drinking laws:</i> New York State Liquor Authority (SLA) and New York State Police	
<i>Methods by which local and state enforcement agencies coordinate their efforts to enforce laws prohibiting underage drinking:</i>	
<ul style="list-style-type: none"> <li>• Conduct joint underage compliance details at licensed premises</li> <li>• Law enforcement agencies send referrals to the New York SLA regarding sales to minors at licensed premises which can be charged administratively against the licensee</li> </ul>	
<b>Enforcement Strategies</b>	
<i>State law enforcement agencies use:</i>	
Cops in Shops	No
Shoulder Tap Operations	No
Party Patrol Operations or Programs	Yes
Underage Alcohol-Related Fatality Investigations	Yes
<i>Local law enforcement agencies use:</i>	
Cops in Shops	No
Shoulder Tap Operations	No
Party Patrol Operations or Programs	Yes
Underage Alcohol-Related Fatality Investigations	Yes
<i>State has a program to investigate and enforce direct sales/shipment laws</i>	
Primary state agency responsible for enforcing laws addressing direct sales/shipments of alcohol to minors	Not applicable
Such laws are also enforced by local law enforcement agencies	No
<b>Enforcement Statistics</b>	
<i>State collects data on the number of minors found in possession</i>	
Number of minors found in possession by state law enforcement agencies	Yes 1,311
Number pertains to the 12 months ending	12/31/2011
Data include arrests/citations issued by local law enforcement agencies	Unknown
<i>State conducts underage compliance checks/decoy operations<sup>2</sup> to determine if alcohol retailers are complying with laws prohibiting sales to minors</i>	
Data are collected on these activities	Yes
Number of licensees checked for compliance by state agencies	1,523
Number of licensees that failed state compliance checks	187
Numbers pertain to the 12 months ending	12/31/2011
<i>Local agencies conduct underage compliance checks/decoy operations to determine if alcohol retailers are complying with laws prohibiting sales to minors</i>	
Data are collected on these activities	No
Number of licensees checked for compliance by local agencies	Data not collected
Number of licensees that failed local compliance checks	Data not collected
Numbers pertain to the 12 months ending	Data not collected
<b>Sanctions</b>	
<i>State collects data on fines imposed on retail establishments that furnish minors</i>	
Number of fines imposed by the state <sup>3</sup>	Yes 994
Total amount in fines across all licensees	\$3,429,950
Numbers pertain to the 12 months ending	12/31/2011
<i>State collects data on license suspensions imposed on retail establishments specifically for furnishing minors</i>	
Number of suspensions imposed by the state <sup>4</sup>	Yes 58
Total days of suspensions across all licensees	1,275
Numbers pertain to the 12 months ending	12/31/2011

State collects data on license revocations imposed on retail establishments specifically for furnishing minors	Yes
Number of license revocations imposed <sup>5</sup>	129
Numbers pertain to the 12 months ending	12/31/2011
<b>Additional Clarification</b>	
The number of minors found in possession of alcohol includes both those from within New York SLA and those referred from law enforcement. Statewide totals are not available. The data provided reflect civil fines and bond claim amounts imposed by the state only. The number of license revocations imposed includes cancellations and revocations.	

<sup>1</sup> Or having consumed or purchased per state statutes.

<sup>2</sup> Underage compliance checks/decoy operations to determine whether alcohol retailers are complying with laws prohibiting sales to minors.

<sup>3</sup> Does not include fines imposed by local agencies.

<sup>4</sup> Does not include suspensions imposed by local agencies.

<sup>5</sup> Does not include revocations imposed by local agencies.

#### **Underage Drinking Prevention Programs Operated or Funded by the State: Programs SPECIFIC TO Underage Drinking**

<b>Enforcing Underage Drinking Laws</b>	
Number of youth served	1,691
Number of parents served	No data
Number of caregivers served	No data
Numbers pertain to the 12 months ending	12/31/2011
Program has been evaluated	No
Evaluation report is available	Not applicable
URL for evaluation report:	Not applicable
URL for more program information:	<a href="http://www.oasas.state.ny.us/pio/press/20100218EUDL.cfm">http://www.oasas.state.ny.us/pio/press/20100218EUDL.cfm</a>
Program description: Annual Block Grant from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) with the goal of preventing the purchase or consumption of alcoholic beverages by minors (under age 21). New York uses the money to fund local prevention programs with the requirement that they partner with law enforcement to conduct comprehensive environmental strategies designed to prevent and reduce underage drinking. The goal is to reduce youth access and alcohol availability. This grant was eliminated in the budget, and so underage drinking prevention efforts will be reduced significantly in New York State.	

#### **Underage Drinking Prevention Programs Operated or Funded by the State: Programs RELATED TO Underage Drinking**

<b>Life Skills Training</b>	
URL for more program information: <a href="http://www.lifeskillstraining.com/index.php">http://www.lifeskillstraining.com/index.php</a>	
Program description: No data	
<b>Too Good for Drugs</b>	
URL for more program information: <a href="http://www.mendezfoundation.org/too_good.php">http://www.mendezfoundation.org/too_good.php</a>	
Program description: No data	
<b>Project Alert</b>	
URL for more program information: <a href="http://www.projectalert.com">http://www.projectalert.com</a>	
Program description: No data	
<b>Project Success</b>	
URL for more program information: <a href="http://www.sascorp.org">http://www.sascorp.org</a>	

Program description: No data
<b>Alcohol Outlet Compliance Checks and Server Training</b> URL for more program information: No data
Program description: No data

<b>Additional Information Related to Underage Drinking Prevention Programs</b>	
<i>State collaborates with federally recognized Tribal governments in the prevention of underage drinking</i>	No
Description of collaboration: Not applicable	
<i>State has programs to measure and/or reduce youth exposure to alcohol advertising and marketing</i>	No
Program description: Not applicable	
<i>State has adopted or developed best practice standards for underage drinking prevention programs</i>	Yes
Best practice standards description: The Office of Alcoholism and Substance Abuse Services (OASAS) just updated the provider guidelines and set new performance standards in 2012. OASAS has established standards for delivery for evidence-based programs and strategies (EBPs) as follows: All providers are required to dedicate an increasing percentage of their OASAS resources to the delivery of EBPs. For 2012, 40 percent of resources must be EBP, increasing each year until reaching 70 percent in 2018. The EBP service approaches include educational curricula, environmental strategies that reduce substance availability, increased enforcement and improved social norms, and multicomponent EBPs. Supported by the SAMHSA Strategic Prevention Framework State Incentive Grant (SPF SIG) funding, a statewide EBP Review Panel of researchers started in 2012 to helping guide providers. For more information, see: <a href="http://www.oasas.ny.gov/prevention/documents/2012PreventionGuidelines.pdf">http://www.oasas.ny.gov/prevention/documents/2012PreventionGuidelines.pdf</a>	
<b>Additional Clarification</b>	
None given	

<b>State Interagency Collaboration</b>	
<i>A state-level interagency governmental body/committee exists to coordinate or address underage drinking prevention activities</i>	Yes
<i>Committee contact information:</i> Name: Scott Brady, OASAS, Director, Bureau of Prevention E-mail: <a href="mailto:scottbrady@oasas.state.ny.us">scottbrady@oasas.state.ny.us</a> Address: 1450 Western Avenue, Albany, NY 12203 Phone: 518-457-4384	
<i>Agencies/organizations represented on the committee:</i> Members of the Advisory Council on Underage Alcohol Consumption Nelson Acquilano (Chair), Council on Alcoholism of the Finger Lakes Sgt. Douglas Pacquette (Vice Chair), New York State Police Linnea Olson, Alcoholism Council of New York Nancy Jones, Capital Region Boards of Cooperative Educational Services (BOCES) John Karzinski, Chief of Police—Gloversville (Retired) Flora Cassallas, Higher Education Consultant Ann Rhodes, Alcoholism and Substance Abuse (SA) Council of Hamilton, Fulton, and Montgomery Counties Cynthia Gonzales, Community Board #7 Meredith L. Henderson, Binghamton, Deputy Secretary to President of the New York State Senate Bruce Kelly, Office of the District Attorney Westchester County Jaime R. Torres, DPM, MS Andrea Wanat, Erie County Council for Prevention of Alcohol & Substance Abuse	

Ellen Morehouse, Student Assistance Services Shawn Roseburgh Nina Moore Visnoonand Bisram Diane Gonzalez Joel Eisedorfer Felix Ortiz Commissioner, New York State Office of Alcoholism and Substance Abuse Services Commissioner, New York State Office of Mental Health Commissioner, New York State Liquor Authority NYS Attorney General Majority Leader of the Senate Speaker of the Assembly	
<i>A website or other public source exists to describe committee activities</i>	No
URL or other means of access:	Not applicable

### Underage Drinking Reports

<i>State has prepared a plan for preventing underage drinking in the last 3 years</i>	Yes
Prepared by: OASAS Plan can be accessed via: <a href="http://www.oasas.ny.gov/prevention/documents/PrevStrategicPlan.pdf">http://www.oasas.ny.gov/prevention/documents/PrevStrategicPlan.pdf</a>	
<i>State has prepared a report on preventing underage drinking in the last 3 years</i>	Yes
Prepared by: OASAS and Advisory Council on Underage Alcohol Consumption Plan can be accessed via: No data	

### Additional Clarification

None given

### State Expenditures for the Prevention of Underage Drinking

<i>Compliance checks/decoy operations in retail outlets:</i>	
Estimate of state funds expended	\$205,000
Estimate based on the 12 months ending	12/31/2011
<i>Checkpoints and saturation patrols:</i>	
Estimate of state funds expended	\$576,000
Estimate based on the 12 months ending	12/31/2011
<i>Community-based programs to prevent underage drinking:</i>	
Estimate of state funds expended	Data not available
Estimate based on the 12 months ending	Data not available
<i>K–12 school-based programs to prevent underage drinking:</i>	
Estimate of state funds expended	Data not available
Estimate based on the 12 months ending	Data not available
<i>Programs targeted to institutes of higher learning:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	12/31/2011
<i>Programs that target youth in the juvenile justice system:</i>	
Estimate of state funds expended	Data not available
Estimate based on the 12 months ending	Data not available
<i>Programs that target youth in the child welfare system:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	12/31/2011
<i>Other programs:</i>	
Programs or strategies included: No data	
Estimate of state funds expended	Not applicable
Estimate based on the 12 months ending	Not applicable

<b>Funds Dedicated to Underage Drinking</b>	
<i>State derives funds dedicated to underage drinking from the following revenue streams:</i>	
Taxes	No
Fines	No
Fees	No
Other	No data
<i>Description of funding streams and how they are used:</i>	
No data	
<b>Additional Clarification</b>	
None given	