State Report

Massachusetts

This state report is excerpted from:
The 2014 Report to Congress on the Prevention and Reduction of Underage Drinking
*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 prohibited and there is no allowance for youth purchase for law enforcement purposes.

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.

Provision(s) targeting suppliers
• It is a criminal offense to lend, transfer, or sell a false ID.
• It is a criminal offense to manufacture or distribute a false ID.

Provision(s) targeting retailers
• 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”)
Use/lose penalties apply to minors under age 21.

Type(s) of violation leading to driver’s license suspension, revocation, or denial
• Underage possession

Authority to impose driver’s license sanction
• Mandatory
**Length of suspension/revocation**
- 90 days

**Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose Laws”)**
Use/lose penalties apply to minors under age 21.

**Type(s) of violation leading to driver’s license suspension, revocation, or denial**
- Underage purchase

**Authority to impose driver’s license sanction**
- Mandatory

**Length of suspension/revocation**
- 180 days

**Graduated Driver’s License**

**Learner stage**
- Minimum entry age: 16
- Minimum learner stage period: 6 months
- Minimum supervised driving requirement: 40 hours, or 30 hours of supervised driving if applicant completes driver skills program

**Intermediate stage**
- Minimum age: 16 years, 6 months
- Unsupervised night driving
  - Prohibited after: 12:30 a.m.
  - Primary enforcement of the night-driving rule, except secondary enforcement between 12:30 a.m. and 1 a.m. and between 4 a.m. and 5 a.m.
- Passenger restrictions exist: No passengers under 18 who are not immediate family members, unless accompanied by licensed driver over 21
  - Primary enforcement of the passenger-restriction rule

**License stage**
- Minimum age to lift restrictions: 18—passenger restrictions expire 6 months after issuance of intermediate license; unsupervised night-driving restrictions remain until full licensure is obtained.

**Laws Targeting Alcohol Suppliers**

**Furnishing of Alcohol to Minors**
Furnishing is prohibited with the following exception(s): EITHER
- Parent/guardian OR
- Spouse

**Compliance Check Protocols**

**Age of decoy**
- Minimum: Not specified
- Maximum: Not specified
Appearance requirements
• Age-appropriate appearance

ID possession
• Prohibited

Verbal exaggeration of age
• Prohibited

Decoy training
• Recommended

Penalty Guidelines for Sales to Minors
Time period/conditions: No guidelines provided

Responsible Beverage Service
No beverage service training requirement

Minimum Ages for Off-Premises Sellers
• Beer: 18
• Wine: 18
• Spirits: 18

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 500 feet. Local government has authority to override state restrictions.
  – On-premises outlets: Yes—within 500 feet. Local government has authority to override state restrictions.
  – Alcohol products: Beer, wine, spirits

Note: Exceptions include (1) premises of an innholder and parts of buildings located 10 or more floors above street level; (2) extension of licensed premises that do not exceed 50 feet.

Dram Shop Liability
• There is no statutory liability.
• The courts recognize common law dram shop liability.
Social Host Liability Laws
- There is no statutory liability.
- The courts recognize common law social host liability.

Host Party Laws
Social host law is not specifically limited to underage drinking parties.
- Action by underage guest that triggers violation: Possession
- Property type(s) covered by liability law: Residence, outdoor, other
- Standard for hosts’ knowledge or action regarding the party: Knowledge—host must have actual knowledge of the occurrence
- Exception(s): Family

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: Current law provides that a winery that produces 30,000 gallons of wine or more may obtain a direct shipment only if the winery has not contracted with or has not been represented by a Massachusetts wholesaler licensed for the preceding 6 months. There is no such requirement on wineries producing less than 30,000 gallons, which includes all wineries in Massachusetts. This provision was ruled unconstitutional in a Federal District Court on November 19, 2008, and upheld on appeal in the 1st Circuit U.S. Court of Appeals on January 14, 2010.

Keg Registration
- Keg definition: More than 2 gallons
- Purchaser information collected: Purchaser’s name and address
- Warning information to purchaser: Active—purchaser action required (e.g., signature)
- Deposit required: $5
- Provisions do not specifically address disposable kegs
Note: Deposit provisions in Massachusetts require that a purchaser pay the following: (a) a container fee of not less than $10 for each keg having a capacity of 6 or more gallons and of not less than $1 for each container having a capacity of less than 6 gallons; and (b) a registration fee of $10 for each keg having a capacity of 6 or more gallons and of $4 for each keg having a capacity of less than 6 gallons.

Home Delivery
- Beer: Permitted—each vehicle used for transportation and delivery must be covered by a permit issued by the commission.
- Wine: Permitted—each vehicle used for transportation and delivery must be covered by a permit issued by the commission.
- Spirits: Permitted—each vehicle used for transportation and delivery must be covered by a permit issued by the commission.

Alcohol Pricing Policies

Alcohol Tax

**Beer (5 percent alcohol)**
- Specific excise tax: $0.11 per gallon

**Wine (12 percent alcohol)**
- Specific excise tax: $0.55 per gallon

**Spirits (40 percent alcohol)**
- Specific excise tax: $4.05 per gallon

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

Wholesale Pricing
Pricing restrictions exist.

**Beer (5 percent alcohol)**
- Price posting requirements: Post and hold—1 month minimum
- Retailer credit: Restricted—60 days maximum

**Wine (12 percent alcohol)**
- Price posting requirements: Post and hold—1 month minimum
- Retailer credit: Restricted—60 days maximum

**Spirits (40 percent alcohol)**
- Price posting requirements: Post and hold—1 month minimum
- Retailer credit: Restricted—60 days maximum
## Massachusetts State Survey Responses

### State Agency Information

*Agency with primary responsibility for enforcing underage drinking laws:*

- Massachusetts Alcoholic Beverages Control Commission

### Enforcement Strategies

#### State law enforcement agencies use:

- Cops in Shops: Yes
- Shoulder Tap Operations: No
- Party Patrol Operations or Programs: Yes
- Underage Alcohol–Related Fatality Investigations: Yes

#### Local law enforcement agencies use:

- Cops in Shops: No
- Shoulder Tap Operations: No
- Party Patrol Operations or Programs: Yes
- Underage Alcohol–Related Fatality Investigations: Yes

### Enforcement Statistics

#### State has a program to investigate and enforce direct sales/shipment laws

- Yes

#### Primary state agency responsible for enforcing laws addressing direct sales/shipments of alcohol to minors

- Massachusetts Alcoholic Beverages Control Commission

#### Such laws are also enforced by local law enforcement agencies

- No

#### State collects data on the number of minors found in possession

- Yes

#### Number of minors found in possession by state law enforcement agencies

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of minors found in possession</td>
<td>302</td>
</tr>
<tr>
<td>Number pertains to the 12 months ending</td>
<td>12/31/2012</td>
</tr>
<tr>
<td>Data include arrests/citations issued by local law enforcement agencies</td>
<td>No</td>
</tr>
</tbody>
</table>

#### State conducts underage compliance checks/decoy operations² to determine if alcohol retailers are complying with laws prohibiting sales to minors

- Yes

#### Data are collected on these activities

- Number of retail licensees in state³: 11,300
- Number of licensees checked for compliance by state agencies (including random checks): 2,287
- Number of licensees that failed state compliance checks: 78
- Numbers pertain to the 12 months ending: 12/31/2012
- Compliance checks/decoy operations conducted at on-sale, off-sale, or both retail establishments: Both on- and off-sale establishments

#### State conducts random underage compliance checks/decoy operations

- Yes

#### Number of licensees subject to random state compliance checks/decoy operations: 2,287

#### Number of licensees that failed random state compliance checks: 78

#### Local agencies conduct underage compliance checks/decoy operations to determine if alcohol retailers are complying with laws prohibiting sales to minors

- Yes

#### Data are collected on these activities

- Number of licensees checked for compliance by local agencies: Not applicable
- Number of licensees that failed local compliance checks: Not applicable
- Numbers pertain to the 12 months ending: 12/31/2012
Sanctions

State collects data on fines imposed on retail establishments that furnish minors

- Number of fines imposed by the state: 20
- Total amount in fines across all licensees: $34,000
- Smallest fine imposed: $100
- Largest fine imposed: $5,000
- Numbers pertain to the 12 months ending 12/31/2012

State collects data on license suspensions imposed on retail establishments specifically for furnishing minors

- Number of suspensions imposed by the state: 155
- Total days of suspensions across all licensees: 334
- Shortest period of suspension imposed (in days): 2
- Longest period of suspension imposed (in days): 35
- Numbers pertain to the 12 months ending 12/31/2012

State collects data on license revocations imposed on retail establishments specifically for furnishing minors

- Number of license revocations imposed: 0
- Numbers pertain to the 12 months ending 12/31/2012

Additional Clarification

In 2012, the agency conducted compliance checks in 236 municipalities across the Commonwealth. There were 2,287 licensed establishments checked, of which 78 failed (3 percent). Of these licensees, 1,001 off-premise licensees were checked, of which 47 failed (5 percent) and 1,242 on-premise licensees checked, of which 31 failed (3 percent). It should be noted that several municipalities with relatively high failure rates in 2011 either had a low failure rate or were in full compliance in 2012. Licensees found in violation of selling or furnishing alcohol to underage individuals are brought before an adjudicatory hearing before the Alcoholic Beverages Control Commission. If found guilty, they are issued a penalty, which can range from a warning to a license suspension. Most are allowed to pay a fine in lieu of suspension, which is statutorily based on their alcohol sales. In 2012, 155 licensees appeared before the commission; 38 received a warning, 69 received a license suspension that was held in abeyance providing they had no further violations of the Liquor Control Act, and 44 received a suspension of their license, of which 19 paid a fine in lieu of, with the balance serving the suspension.

1 Or having consumed or purchased per state statutes.
2 Underage compliance checks/decoy operations to determine whether alcohol retailers are complying with laws prohibiting sales to minors.
3 Excluding special licenses such as temporary, seasonal, and common carrier licenses.
4 Does not include fines imposed by local agencies.
5 Does not include suspensions imposed by local agencies.
6 Does not include revocations imposed by local agencies.

Underage Drinking Prevention Programs Operated or Funded by the State

Bureau of Substance Abuse Services (BSAS), Underage Drinking Prevention Programs, and Regional Centers for Healthy Communities

<table>
<thead>
<tr>
<th>Program serves specific or general population</th>
<th>Specific population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of youth served</td>
<td>16,007,789*</td>
</tr>
<tr>
<td>Number of parents served</td>
<td>4,344,394*</td>
</tr>
<tr>
<td>Number of caregivers served</td>
<td>313,122*</td>
</tr>
<tr>
<td>Program has been evaluated</td>
<td>No</td>
</tr>
<tr>
<td>Evaluation report is available</td>
<td>Not applicable</td>
</tr>
<tr>
<td>URL for evaluation report:</td>
<td>Not applicable</td>
</tr>
<tr>
<td>URL for more program information:</td>
<td><a href="http://www.mass.gov/dph/bsas">http://www.mass.gov/dph/bsas</a></td>
</tr>
</tbody>
</table>
Program Description:
- 31 underage drinking prevention programs in collaboration with 6 regional centers in communities across the Commonwealth
- Coalition/community focused
- Require city/town participation
- Use the SAMHSA Strategic Prevention Framework (SPF)
- Required to use evidence-based environmental strategies that relate directly to assessment-identified problems

Town Meeting Initiative
- Program serves specific or general population: Specific population
- Number of youth served: No data
- Number of parents served: No data
- Number of caregivers served: No data
- Program has been evaluated: No
- Evaluation report is available: Not applicable
- URL for evaluation report: Not applicable
- URL for more program information: Not applicable

Program Description: There were 48 Town Hall Meetings for Underage Drinking funded during this reporting period.

Dance. Don’t Chance. Contest
- Program serves specific or general population: Specific population
- Number of youth served: No data
- Number of parents served: No data
- Number of caregivers served: No data
- Program has been evaluated: No
- Evaluation report is available: Not applicable
- URL for evaluation report: Not applicable
- URL for more program information: http://www.youtube.com/user/2013DanceDontChance

Program Description: Funded by the National Highway Traffic Safety Administration (NHTSA), this is a spring prom and graduation season safe-driving video contest in which teens write, produce, and submit a 60-second YouTube video on safe driving and avoiding underage drinking. The winning school is awarded a package of prizes for their prom donated by private sponsors.

District Attorneys Underage Drinking Prevention Program
- Program serves specific or general population: Specific population
- Number of youth served: No data
- Number of parents served: No data
- Number of caregivers served: No data
- Program has been evaluated: No
- Evaluation report is available: Not applicable
- URL for evaluation report: Not applicable
- URL for more program information: No data

Program Description: NHTSA funding enabled two District Attorney’s Offices to convene Underage Drinking Prevention Conferences.

Student Athlete Underage Drinking Prevention Conferences
- Program serves specific or general population: Specific population
- Number of youth served: 500
- Number of parents served: No data
- Number of caregivers served: No data
- Program has been evaluated: No data
- Evaluation report is available: No data
**Program Description:** Funded by NHTSA, two conferences for student athletes were attended by 500 students.

**Additional Underage Drinking Prevention Programs Operated or Funded by the State**

<table>
<thead>
<tr>
<th>Program description</th>
<th>No data</th>
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</thead>
<tbody>
<tr>
<td>URL for more program information</td>
<td>No data</td>
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</tbody>
</table>

**Additional Clarification**

*Regarding the Bureau of Substance Abuse Services (BSAS), Underage Drinking Prevention Programs, and Regional Centers for Healthy Communities programs, these estimates are based on the total number of contacts, which may include multiple contacts with the same individuals.*

**Additional Information Related to Underage Drinking Prevention Programs**

| State collaborates with federally recognized Tribal governments in the prevention of underage drinking | Yes |
| Description of collaboration: | The Department of Public Health has continued to collaborate with Native American key partners to provide culturally appropriate services to Native Americans in Massachusetts. |

| State has programs to measure and/or reduce youth exposure to alcohol advertising and marketing | Yes |
| Description of program: | Community level: restrictions on advertising; counteralcohol advertising on billboards and public transportation. State level: Counteralcohol advertising via magazine, social media, and transit ads. The Massachusetts Bay Transit Authority, the state’s largest transit system, agreed to suspend alcohol advertising on 7/1/2012. |

| State has adopted or developed best practice standards for underage drinking prevention programs | Yes |
| Agencies/organizations that established best practices standards: | |
| Federal agency(ies): | No |
| Agency(ies) within your state: | Department of Public Health, Bureau of Substance Abuse Services |
| Nongovernmental agency(ies): | No |
| Other: | No |
| Best practice standards description: | BSAS implements best practices through: 1. A competitive request-for-response (RFR) process 2. Strategy meetings 3. Regular site visits The RFR requires the selection of an evidence-based model. Regular meetings provide technical assistance to ensure implementation of the SPF sustainability as well as cultural competence. The community’s logic model, action plan, accomplishments, and challenges are reviewed throughout the year. |

**State Interagency Collaboration**

| A state-level interagency governmental body/committee exists to coordinate or address underage drinking prevention activities | Yes |

**Report to Congress on the Prevention and Reduction of Underage Drinking**

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**Committee contact information:**
Name: William D. Luzier; Executive Director, Interagency Council on Substance Abuse & Prevention
E-mail: william.luzier@state.ma.us
Address: 250 Washington Street, Floor 3, Boston, MA 02108
Phone: 617-624-5121

**Agencies/organizations represented on the committee:**
- Lieutenant Governor, Chair
- Executive Office of Health and Human Services
- Executive Office of Public Safety and Security
- Executive Office of Elder Affairs
- Executive Office of Veterans Affairs
- Department of Elementary and Secondary Education
- Department of Corrections
- Parole Board
- Department of Probation
- Department of Public Health
- Department of Youth Services
- Department of Mental Health
- Department of Developmental Services
- Massachusetts Rehabilitation Commission
- Department of Transitional Assistance
- Department of Children and Families
- Center for Health Information and Analysis
- Department of the Deaf and Hard of Hearing
- Department of Early Education and Care
- Bureau of Substance Abuse Services
- MassHealth (Medicaid)
- Superior Court District Court
- Juvenile Court
- Governor’s Office
- Senate
- House
- Private citizen recovering from substance abuse problems

**A website or other public source exists to describe committee activities** Yes
URL or other means of access: http://www.mass.gov/governor/administration/ltgov/lgcommittee/subabuseprevent

**Underage Drinking Reports**

<table>
<thead>
<tr>
<th>State has prepared a plan for preventing underage drinking in the last 3 years</th>
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<tbody>
<tr>
<td>Prepared by: Interagency Council on Substance Abuse &amp; Prevention</td>
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<table>
<thead>
<tr>
<th>State has prepared a report on preventing underage drinking in the last 3 years</th>
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<tr>
<td>Prepared by: Department of Elementary and Secondary Education and Department of Public Health</td>
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</table>

**Additional Clarification**

No data

**State Expenditures for the Prevention of Underage Drinking**

<table>
<thead>
<tr>
<th>Compliance checks in retail outlets:</th>
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</thead>
<tbody>
<tr>
<td>Estimate of state funds expended</td>
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<tr>
<td>Estimate based on the 12 months ending</td>
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</table>

<table>
<thead>
<tr>
<th>Checkpoints and saturation patrols:</th>
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<tbody>
<tr>
<td>Estimate of state funds expended</td>
</tr>
<tr>
<td>Community-based programs to prevent underage drinking:</td>
</tr>
<tr>
<td>------------------------------------------------------</td>
</tr>
<tr>
<td>Estimate based on the 12 months ending</td>
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<table>
<thead>
<tr>
<th>K-12 school-based programs to prevent underage drinking:</th>
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<tr>
<td>Estimate based on the 12 months ending</td>
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<td>Estimate of state funds expended</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Programs targeted to institutes of higher learning:</th>
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<tr>
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<td>Estimate of state funds expended</td>
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<table>
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<tr>
<th>Programs that target youth in the juvenile justice system:</th>
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<td>Estimate of state funds expended</td>
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<table>
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<tr>
<th>Programs that target youth in the child welfare system:</th>
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<table>
<thead>
<tr>
<th>Other programs:</th>
<th>Data not available</th>
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</thead>
<tbody>
<tr>
<td>Programs or strategies included:</td>
<td>Data not available</td>
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<tr>
<td>Estimate of state funds expended</td>
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</tbody>
</table>

**Funds Dedicated to Underage Drinking**

State derives funds dedicated to underage drinking from the following revenue streams:

<table>
<thead>
<tr>
<th>Taxes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fines</td>
<td>No</td>
</tr>
<tr>
<td>Fees</td>
<td>No</td>
</tr>
<tr>
<td>Other</td>
<td>No data</td>
</tr>
</tbody>
</table>

**Description of funding streams and how they are used:**

Not applicable

**Additional Clarification**

Regarding compliance check expenditures, this is a grant from the Executive Office of Public Safety for Compliance Checks/Decoy operations. Regarding checkpoints and saturation patrols expenditures, this is a specific state budget line item dedicated to this enforcement: “For the costs associated with the investigation and enforcement division of the alcoholic beverages control commission's implementation of the enhanced liquor enforcement programs, known as Safe Campus, Safe Holidays, Safe Prom and Safe Summer; provided, that funds from this appropriation shall not support other operating costs of item 0610-0050 $150,000.” Since 2005, investigators have conducted these programs with the following results: 4,250 minors in possession or transporting alcoholic beverages; 2,119 adults procuring alcohol for minors; 491 individuals in possession of false identification; and 2,348 cases of beer and 1,564 bottles of alcohol confiscated by investigators. Based on the national standard for determining “binge drinking,” this prevented delivery to approximately 29,684 underage individuals.

All of the programs that target underage drinking prevention are funded either through the Prevention portion of the SAMHSA Block Grant or through specific federal grant funding.