

State Report

South Dakota

This document is excerpted from:

The September 2016 Report to Congress on the Prevention and Reduction of Underage Drinking



South Dakota

State Population: 853,175
Population Ages 12–20: 100,000

	Percentage	Number
Ages 12–20		
Past-Month Alcohol Use	25.0	25,000
Past-Month Binge Alcohol Use	18.5	19,000
Ages 12–14		
Past-Month Alcohol Use	2.5	1,000
Past-Month Binge Alcohol Use	1.5	1,000
Ages 15–17		
Past-Month Alcohol Use	21.1	6,000
Past-Month Binge Alcohol Use	14.9	5,000
Ages 18–20		
Past-Month Alcohol Use	50.1	18,000
Past-Month Binge Alcohol Use	38.1	13,000
Alcohol-Attributable Deaths (under 21)		15
Years of Potential Life Lost (under 21)		883
	Percentage of All Traffic Fatalities	Number
Traffic Fatalities, 15- to 20-Year-Old Drivers with BAC > 0.01	26	6

Laws Addressing Minors in Possession of Alcohol

Underage Possession	
Is underage possession of alcoholic beverages prohibited?	Yes
Are there exceptions based on family relationships?	
• Is possession allowed if parent or guardian is present or consents?	Yes
• Is possession allowed if spouse is present or consents?	Yes
Is there an exception based on location?	No

Underage Consumption	
Is underage consumption of alcoholic beverages prohibited?	Yes
Are there exceptions based on family relationships?	
• Is consumption allowed if the parent or guardian is present or consents?	Yes
• Is consumption allowed if the spouse is present or consents?	Yes
Is there an exception based on location?	No

Underage Internal Possession	
Is underage internal possession of alcoholic beverages prohibited?	No law
Are there exceptions based on family relationships?	
• Is internal possession allowed if the parent or guardian is present or consents?	N/A
• Is internal possession allowed if the spouse is present or consents?	N/A
Is there an exception based on location?	N/A

Underage Purchase and Attempted Purchase	
Is the purchase of alcoholic beverages prohibited?	Yes
May youth purchase for law enforcement purposes?	No

False Identification for Obtaining Alcohol	
Provisions Targeting Minors	
Is the use of false identification (ID) prohibited?	Yes
Does the use of a false ID result in minor's driver's license suspension?	Yes, through a judicial process
Provisions Targeting Suppliers	
Is the lending or transferring or selling of a false ID prohibited?	No
Is the production of a false ID in the context of underage alcohol sales specifically prohibited?	No
Retailer Support Provisions	
Is there an incentive for the retailer to use electronic scanners for information digitally encoded on valid IDs?	No
Are state driver's licenses for persons under 21 easily distinguishable from licenses for persons 21 and over?	No
May retailers seize apparently false IDs without fear of prosecution even if the ID is ultimately deemed valid?	No
Does an affirmative defense exist for the retailer?	Yes
• Is it a specific affirmative defense (retailer reasonably believed ID was valid after examining it)?	Yes

• Is it a general affirmative defense (retailer reasonably believed purchaser was over 21)?	No
Does the retailer have the right to sue the minor for use of a false ID?	No
May a retailer detain a minor who used a false ID?	Yes

Laws Targeting Underage Drinking and Driving

Youth Blood Alcohol Concentration Limits (Underage Operators of Noncommercial Motor Vehicles)	
What is the maximum blood alcohol concentration (BAC) limit for an underage driver of a motor vehicle?	0.02
Does a BAC level in excess of limit automatically establish a violation (per se violation)?	Yes
What is the minimum age to which the limit applies?	0
What is the maximum age to which the limit applies?	21

Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose” Laws)	
Is there a “use/lose” law that suspends or revokes a minor’s driving privileges for alcohol violations?	Yes
What types of violation lead to license suspension or revocation?	
• Purchase of alcohol	Yes
• Possession of alcohol	Yes
• Consumption of alcohol	Yes
The law applies to people under what age?	21
Is suspension or revocation mandatory or discretionary?	Discretionary
What is the length of suspension/revocation?	
Minimum number of days	30
Maximum number of days	365

Graduated Driver’s Licenses	
Learner Stage	
What is the minimum age for permit to drive with parents, guardians or other adults (other than instructors)?	14
What is the minimum number of months driver must hold learner permit before advancing to intermediate stage?	3 with driver education; 6 months without
What is the minimum number of hours of driving with parents, guardians, or adults before advancing to intermediate stage?	0
Intermediate Stage	
What is the minimum age for driving without adult supervision?	14 years, 3 months
For night driving, when does adult supervision requirement begin?	10 pm
Can law enforcement stop a driver for night-driving violation as a primary offense?	Yes – Officer may stop driver for night-driving violation
Are there restrictions on passengers?	No
Can law enforcement stop driver for violation of passenger restrictions as a primary offense?	N/A
License Stage	
What is the minimum age for full license privileges and lifting of restrictions?	16

Laws Targeting Alcohol Suppliers

Furnishing Alcohol to Minors	
Is furnishing of alcoholic beverages to minors prohibited?	Yes
Are there exceptions based on family relationships?	
• Is furnishing allowed if the parent or guardian supplies the alcohol?	Yes
• Is furnishing allowed if the spouse supplies the alcohol?	Yes
Is there an exception based on location?	No
Affirmative Defense for Sellers and Licensees	
Does law require seller/licensee to be exonerated of furnishing to a minor if the minor has not been charged?	No

Compliance Check Protocols	
Does the state have a written protocol for when an underage decoy is used in compliance checks?	No data
What is the minimum age a decoy may be to participate in a compliance check?	N/A
What is the maximum age a decoy may be to participate in a compliance check?	N/A
What are the decoy's appearance requirements?	N/A
Does decoy carry ID during compliance check?	N/A
May decoy verbally exaggerate his or her actual age?	N/A
Is decoy training mandated, recommended, prohibited, or not specified?	N/A

Penalty Guidelines for Sales to Minors	
Are there written guidelines for penalties imposed on retailers for furnishing to a minor?	No data
What is the time period for defining second, third, and subsequent offenses?	N/A
What is the penalty for the first offense?	N/A
What is the penalty for the second offense?	N/A
What is the penalty for the third offense?	N/A
What is the penalty for the fourth offense?	N/A

Responsible Beverage Service (RBS)	
Is there a state law pertaining to beverage service training?	Yes – Voluntary
If training is mandatory, who must participate?	N/A
If training is voluntary, which of the following incentives are offered?	
• Defense in dram shop liability lawsuits	No
• Discounts in dram shop liability insurance, license fees, or other	No
• Mitigation of fines or other administrative penalties for sales to minors or intoxicated persons	Yes
• Protection against license revocation for sales to minors or sales to intoxicated persons	No
Does the RBS law apply to on-premises establishments (such as bars and restaurants) or off-premises establishments (such as liquor stores)?	Both
Does the RBS law apply to new or existing licensees?	Both

Minimum Age for Sellers of Alcohol – Off-Premises (i.e., Liquor Stores)	
What is the minimum age requirement for off-premises retail establishments?	
Beer	None
Wine	21
Spirits	21
Does a manager or supervisor have to be present?	No

Minimum Age for Alcohol Servers and Bartenders – On-Premises (i.e., Restaurants and Bars)	
What is the minimum age requirement for servers in on-premises establishments?	
Beer	18
Wine	18
Spirits	18
What is the minimum age requirement for bartenders in on-premises establishments?	
Beer	21
Wine	21
Spirits	21
Does a manager or supervisor have to be present?	Yes

Alcohol Outlet Siting Near Schools and Universities	
Colleges and Universities	
Is there a distance requirement for off-premises outlets (i.e., liquor stores)?	Yes – No license on campus
Is there a distance requirement for on-premises outlets (i.e., restaurants and bars)?	Yes – No license on campus
To which alcohol products does requirement apply?	Beer, wine, spirits
Primary and Secondary Schools	
Is there a distance requirement for off-premises outlets (i.e., liquor stores)?	No
Is there a distance requirement for on-premises outlets (i.e., restaurants and bars)?	No
To which alcohol products does requirement apply?	N/A

Dram Shop Liability	
Does a statute create dram shop liability?	No
Does the statute limit damages that may be recovered?	N/A
Does the statute limit who may be sued?	N/A
Does the statute limit elements or standards of proof?	N/A
Does common law dram shop liability exist?	No

Social Host Liability	
Does a statute create social host liability?	No
Does the statute limit damages that may be recovered?	N/A
Does the statute limit who may be sued?	N/A
Does the statute limit elements or standards of proof?	N/A
Does common law social host liability exist?	No

Prohibitions Against Hosting Underage Drinking Parties	
Does a statute prohibit hosting underage drinking parties?	Yes
Is the statute specific to underage parties, or a general prohibition against permitting underage drinking on the property?	Specific
What action by underage guest triggers a violation?	Consumption
Property type covered by the law?	Residential/Outdoor/Other
What level of knowledge by the host is required?	Knowledge: Host must have actual knowledge of party
Does host's preventive action protect him/her from being held liable?	Yes
Are there any exceptions for underage guests?	No
<i>Note:</i> The "preventive action" provision in South Dakota allows the defendant to avoid criminal liability by establishing, as an affirmative defense, that immediately upon learning of the illegal consumption, he or she took action to stop the illegal consumption and to secure the contraband alcoholic beverages.	

Retailer Interstate Shipments of Alcohol	
Are out-of-state retailers prohibited from sending interstate shipments to in-state consumers?	
Beer	Yes
Wine	Yes
Spirits	Yes

Direct Shipments/Sales	
May alcohol producers ship directly to consumers?	No
What alcohol types may be shipped?	N/A
Must purchaser make mandatory trip to producer before delivery is authorized?	N/A
Age verification requirements	
Must the producer/shipper verify purchaser's age before sale?	N/A
Must the common carrier (deliverer) verify age of recipients?	N/A
State approval/permit requirements	
Must the producer/manufacture obtain state license or permit?	N/A
Must the common carrier (deliverer) be approved by a state agency?	N/A
Recording/reporting requirements	
Must the producer/manufacture record/report purchaser's name?	N/A
Must the common carrier (deliverer) record/report recipient's name?	N/A
Shipping label requirements	
Must the label state "Package contains alcohol"?	N/A
Must the label state "Recipient must be 21 years old"?	N/A
<i>Note:</i> Exception: A farm winery license (any winery producing wines with a majority of the ingredients grown or produced in South Dakota) may ship no more than 12 cases of wine per person per calendar year directly to a resident of another state, if the state to which the wine is sent allows residents of the state to receive wine sent from outside that state.	

Keg Registration	
How is a keg defined (in gallons)?	8.00 or 16.00
Prohibitions	
Is it illegal to possess an unregistered or unlabeled keg and if so, what is the penalty?	No
Is it illegal to destroy the label on a keg, and if so, what is the penalty?	No

What purchaser information is collected?	
Must the retailer collect the name and address?	Yes
Must the retailer collect the ID number, name and address on license or other government information?	No
Must the retailer collect the address at which keg will be consumed?	No
Must warning information be given to purchaser?	Not required
Is a deposit required?	No
Does law cover disposable kegs?	No
<i>Note: A keg is defined as an 8- or 16-gallon reusable plastic or metal container.</i>	

Home Delivery	
Is home delivery of alcohol permitted?	
Beer	No
Wine	No
Spirits	No

High-Proof Grain Alcohol Beverages	
Are there restrictions on the sale of high-proof grain alcohol beverages?	No
Are restrictions based on Alcohol by Volume (ABV)?	N/A
Are there exceptions to restrictions?	N/A

Laws Affecting Alcohol Pricing

Alcohol Taxes	
Beer	
Control system for beer?	No
Specific excise tax per gallon for 5% alcohol beer	\$0.27
Ad valorem excise tax (for on-premises sales) on total receipts for 5% alcohol beer	
Wholesale tax rate (if applicable)	
Retail tax rate (if applicable)	
If retail tax rate applies, is there an exemption from general sales tax?	No
• General sales tax rate	Not relevant
• Sales tax adjusted retail tax rate (the retail tax minus the general sales tax, where there is an exemption from the general sales tax)	Not relevant
Ad valorem excise tax (for off-premises sales) on total receipts for 5% alcohol beer	
Wholesale tax rate (if applicable)	
Retail tax rate (if applicable)	
If retail tax rate applies, is there an exemption from general sales tax?	No
• General sales tax rate	Not relevant
• Sales tax adjusted retail tax rate (the retail tax minus the general sales tax, where there is an exemption from the general sales tax)	Not relevant
Additional taxes for 3.2–6% alcohol beer (if applicable)	
Wine	
Control system for wine?	No
Specific excise tax per gallon for 12% alcohol wine	\$0.93
Ad valorem excise tax (for on-premises sales) on total receipts for 12% alcohol wine	

Wholesale tax rate (if applicable)	2%
Retail tax rate (if applicable)	
If retail tax rate applies, is there an exemption from general sales tax?	No
• General sales tax rate	Not relevant
• Sales tax adjusted retail tax rate (the retail tax minus the general sales tax, where there is an exemption from the general sales tax)	Not relevant
Ad valorem excise tax (for off-premises sales) on total receipts for 12% alcohol wine	
Wholesale tax rate (if applicable)	2%
Retail tax rate (if applicable)	
If retail tax rate applies, is there an exemption from general sales tax?	No
• General sales tax rate	Not relevant
• Sales tax adjusted retail tax rate (the retail tax minus the general sales tax, where there is an exemption from the general sales tax)	Not relevant
Additional taxes for 6–14% alcohol wine (if applicable)	
Spirits	
Control system for spirits?	No
Specific excise tax per gallon for 40% alcohol spirits	\$3.93
Ad valorem excise tax (for on-premises sales) on total receipts for 40% alcohol spirits	
Wholesale tax rate (if applicable)	2%
Retail tax rate (if applicable)	
If retail tax rate applies, is there an exemption from general sales tax?	No
• General sales tax rate	Not relevant
• Sales tax adjusted retail tax rate (the retail tax minus the general sales tax, where there is an exemption from the general sales tax)	Not relevant
Ad valorem excise tax (for off-premises sales) on total receipts for 40% alcohol spirits	
Wholesale tax rate (if applicable)	2%
Retail tax rate (if applicable)	
If retail tax rate applies, is there an exemption from general sales tax?	No
• General sales tax rate	Not relevant
• Sales tax adjusted retail tax rate (the retail tax minus the general sales tax, where there is an exemption from the general sales tax)	Not relevant
Additional taxes for 15–50% alcohol spirits (if applicable)	

Low-Price, High-Volume Drink Specials	
What types of drink specials are prohibited by on-premises retailers?	
Free beverages	No
Multiple servings at one time	No
Multiple servings for same price as single serving	No
Reduced price for a specified day or time (i.e., happy hours)	No
Unlimited beverages for fixed price	No
Increased volume without increase in price	No

Wholesaler Pricing Restrictions	
Beer	
Are volume discounts to retailers allowed?	No law
Must wholesalers establish a minimum markup or maximum discount for each product sold to retailers?	Yes
Must wholesalers publicly post and hold (i.e., not reduce) prices for a set time period?	Post
Is wholesaler permitted to extend credit to retailer and if so, what is the maximum time period?	No
Wine	
Are volume discounts to retailers allowed?	No law
Must wholesalers establish a minimum markup or maximum discount for each product sold to retailers?	Yes
Must wholesalers publicly post and hold (i.e., not reduce) prices for a set time period?	Post
Is wholesaler permitted to extend credit to retailer and if so, what is the maximum time period?	Yes (30 days)
Spirits	
Are volume discounts to retailers allowed?	No law
Must wholesalers establish a minimum markup or maximum discount for each product sold to retailers?	Yes
Must wholesalers publicly post and hold (i.e., not reduce) prices for a set time period?	Post
Is wholesaler permitted to extend credit to retailer and if so, what is the maximum time period?	Yes (30 days)
<i>Note: Wholesalers may not sell below cost. South Dakota requires a 10-day minimum hold period only if price of spirits is amended to match a competitor's post down.</i>	

South Dakota State Survey Responses

State Agency Information

Agency with primary responsibility for enforcing underage drinking laws:

South Dakota Department of Revenue

Enforcement Strategies

State law enforcement agencies use:

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

Local law enforcement agencies use:

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

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	South Dakota Dept. of Revenue
Such laws are also enforced by local law enforcement agencies	Don't know

Enforcement Statistics

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

Number of minors found in possession by state law enforcement agencies 4,355

Number pertains to the 12 months ending 6/30/2014

Data include arrests/citations issued by local law enforcement agencies Yes

State conducts underage compliance checks/decoy operations² to determine if alcohol retailers are complying with laws prohibiting sales to minors No

Data are collected on these activities No

Number of retail licensees in state³ No data

Number of licensees checked for compliance by state agencies (including random checks) Not applicable

Number of licensees that failed state compliance checks Not applicable

Numbers pertain to the 12 months ending Not applicable

Compliance checks/decoy operations conducted at on-sale, off-sale, or both retail establishments Not applicable

State conducts **random** underage compliance checks/decoy operations Not applicable

Number of licensees subject to **random** state compliance checks/decoy operations Not applicable

Number of licensees that failed **random** state compliance checks Not applicable

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 Yes

Number of licensees checked for compliance by local agencies 799

Number of licensees that failed local compliance checks 68

Numbers pertain to the 12 months ending 6/30/2014

Sanctions

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

Number of fines imposed by the state⁴ 68

Total amount in fines across all licensees \$97,150

Smallest fine imposed \$500

Largest fine imposed \$2,000

Numbers pertain to the 12 months ending 6/30/2014

<i>State collects data on license suspensions imposed on retail establishments specifically for furnishing minors</i>	Yes
Number of suspensions imposed by the state ⁵	1
Total days of suspensions across all licensees	14
Shortest period of suspension imposed (in days)	14
Longest period of suspension imposed (in days)	14
Numbers pertain to the 12 months ending	6/30/2014
<i>State collects data on license revocations imposed on retail establishments specifically for furnishing minors</i>	Yes
Number of license revocations imposed ⁶	0
Numbers pertain to the 12 months ending	6/30/2014

Additional Clarification

No data

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

South Dakota does not utilize state general funds to support local underage drinking programming.

Program serves specific or general population	Not applicable
Number of youth served	Not applicable
Number of parents served	Not applicable
Number of caregivers served	Not applicable
Program has been evaluated	Not applicable
Evaluation report is available	Not applicable
URL for evaluation report:	Not applicable
URL for more program information:	Not applicable

Program Description: No data

Additional Underage Drinking Prevention Programs Operated or Funded by the State

Program description: No data

Additional Clarification

South Dakota uses only federal funds to support the underage drinking programming in the state.

Additional Information Related to Underage Drinking Prevention Programs

<i>State collaborates with federally recognized tribal governments in the prevention of underage drinking</i>	Yes
Description of collaboration: South Dakota uses federal funding to support underage drinking programming for youth who live on and off State Reservations. The EBP's utilized are culturally relevant to the youth being served.	
<i>State has programs to measure and/or reduce youth exposure to alcohol advertising and marketing</i>	No
Description of program:	Not applicable
<i>State has adopted or developed best practice standards for underage drinking prevention programs</i>	Yes
Agencies/organizations that established best practices standards:	
Federal agency(ies):	No
Agency(ies) within your state: Division of Behavioral Health Prevention Program	Yes

Nongovernmental agency(ies): No

Other: No

Best practice standards description: To ensure best practice standards, South Dakota requires local community coalitions that implement programming to use Evidence Based Programming. Some programs being used include: Project Success, Communities Mobilizing for Change, Prime for Life, and Positive Action. The Prevention Program requires each program funded have a detailed evaluation plan with specific goals, objectives, and activities, along with a detailed yearly work plan. Trained prevention staff conduct random checks to ensure the programs are being implemented with fidelity.

Additional Clarification

The state funds 22 alcohol and drug coalitions and three prevention resource centers with federal funds. These programs have resulted in a decrease in the state's underage drinking rates.

State Interagency Collaboration

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

Committee contact information:

Name: Gib Sudbeck

Email: gib.sudbeck@state.sd.us

Address: Kneip Building, Pierre, SD 57501

Phone: 605-773-4828

Agencies/organizations represented on the committee:

Community Behavioral Health Program

Tribal Behavioral Health Program

Indian Health Services

State Division of Behavioral Health

National Guard

Community Coalition member

Community Coalition member

Prevention Resource Center

Suicide Prevention Coalition

Suicide Prevention Coalition

A website or other public source exists to describe committee activities Yes

URL or other means of access: Minutes of the meetings are available upon request.

Underage Drinking Reports

State has prepared a plan for preventing underage drinking in the last 3 years Yes

Prepared by: A workgroup made up of providers led with the Division of Behavioral Health Prevention Program.

Plan can be accessed via: <http://dss.sd.gov/behavioralhealth/community/prevention.aspx>

State has prepared a report on preventing underage drinking in the last 3 years No

Prepared by: Not applicable

Plan can be accessed via: Not applicable

Additional Clarification

The Prevention Program has prepared a comprehensive report on the outcomes of our federally funded local coalitions, but this would not be classified as a state report on underage drinking in South Dakota.

State Expenditures for the Prevention of Underage Drinking

Compliance checks in retail outlets:

Estimate of state funds expended \$0

Estimate based on the 12 months ending 6/30/2014

Checkpoints and saturation patrols:

Estimate of state funds expended \$14,465 (SD Highway Patrol did 123 saturation patrols and 186 checkpoints)

Estimate based on the 12 months ending	12/31/2014
<i>Community-based programs to prevent underage drinking:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	5/31/2015
<i>K-12 school-based programs to prevent underage drinking:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	5/31/2015
<i>Programs targeted to institutes of higher learning:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	5/31/2015
<i>Programs that target youth in the juvenile justice system:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	5/31/2015
<i>Programs that target youth in the child welfare system:</i>	
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	5/31/2015
<i>Other programs:</i>	
Programs or strategies included	No data
Estimate of state funds expended	\$0
Estimate based on the 12 months ending	5/31/2015

Funds Dedicated to Underage Drinking

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

Taxes	No
Fines	No
Fees	No
Other	Not applicable

Description of funding streams and how they are used: Not applicable

Additional Clarification

No State General Funds are used to support underage drinking prevention services in the state.