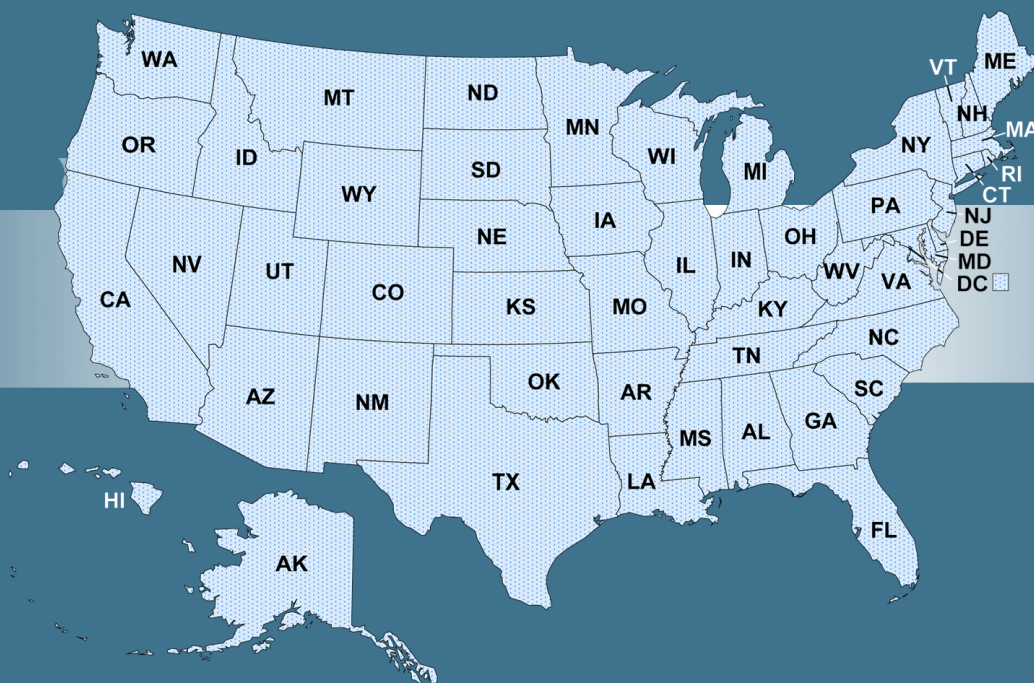


STATE PERFORMANCE & BEST PRACTICES

for the Prevention and Reduction of Underage Drinking

2018



POLICY SUMMARY:

Furnishing Alcohol to Minors



SAMHSA
Substance Abuse and Mental Health
Services Administration

The *State Performance and Best Practices* is required by the Sober Truth on Preventing (STOP) Underage Drinking Act (Pub. L. 109-422), which was enacted by Congress in 2006 and reauthorized in December 2016 as part of the 21st Century Cures Act (Pub. L. 114-255). The STOP Act directs the Secretary of the Department of Health and Human Services (HHS), working with the Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD), to develop a set of performance measures for evaluating the states' use of best practices in preventing underage drinking, and to consider a set of enumerated categories in doing so. The STOP Act also requires an annual report on each state's performance in enacting, enforcing, and creating laws, regulations, and programs to prevent or reduce underage drinking.

This *State Performance and Best Practices*, and the 51 individual State Reports, were prepared by the ICCPUD, which is chaired by the Assistant Secretary for Mental Health and Substance Use, U.S. Department of Health and Human Services.

Time period covered by the 2018 *State Performance and Best Practices*: The 2018 version primarily includes data from calendar year 2017. The data on state legal policies reflects the state of the law as of January 1, 2017. The state survey data was collected in 2017, and is drawn from the most recent 12-month period in which the states maintained the data.

Recommended Citation

U.S. Department of Health and Human Services (HHS), Substance Abuse and Mental Health Services Administration (SAMHSA), Interagency Coordinating Committee on the Prevention of Underage Drinking (ICCPUD). (2018). *State Performance and Best Practices for the Prevention and Reduction of Underage Drinking*.

Policies Targeting Alcohol Availability

Furnishing Alcohol to Minors

Policy Description

All states prohibit furnishing alcoholic beverages to minors by both commercial servers (bars, restaurants, retail sales outlets) and noncommercial servers. However, examination of case law would be required to determine with certainty that the prohibition applies to both commercial and noncommercial servers in all states. Additionally, most states include some type of exception (of the types listed below) to their furnishing laws.

Most underage persons obtain alcohol from adults, including parents, older siblings, peers, or strangers solicited to purchase alcohol for the minor. However, some underage persons purchase alcohol for themselves from merchants who fail to comply with laws prohibiting sale to minors or by using false ID (see the “False Identification” policy). These sources increase the availability of alcohol to youths, which, in turn, increases underage consumption. Prohibitions and associated sanctions on furnishing to underage persons can be expected to depress rates of furnishing by raising the monetary and social costs of this behavior. Such laws provide a primary deterrent (preventing furnishing) and a secondary deterrent (reducing the chances of persons sanctioned under these laws furnishing in the future).

Two types of exceptions to underage furnishing laws are discussed in this analysis:

1. Family exceptions permit parents, guardians, or spouses to furnish alcohol to minors; some states specify that the spouse must be of legal age and others do not.
2. Location exceptions permit furnishing alcohol in specified locations and may limit the extent to which family members can furnish to minors. No state has an exception for furnishing on private property by anyone other than a family member.

Some states provide sellers and licensees with one or more defenses against a charge of furnishing alcoholic beverages to a minor. Under these provisions, a retailer who provides alcohol to a minor will not be found in violation of the furnishing law if he or she can establish one of these defenses. This policy topic tracks one such defense: some states require that the minor who initiated a transaction be charged for possessing or purchasing the alcohol before the retailer can be found in violation of the furnishing law (see the “False Identification” policy for information on defenses associated with minors using false ID). Many states also have provisions that mitigate or reduce the penalties imposed on retailers if they have participated in responsible beverage service (RBS) programs; see the “Responsible Beverage Service” policy for further discussion.

In some states, furnishing laws are closely associated with laws that prohibit hosting underage drinking parties. These laws target hosts who allow underage drinking on property they own, lease, or otherwise control (see the “Hosting Underage Drinking Parties” policy for further discussion). Hosts of underage drinking parties who also supply the alcohol consumed or possessed by minors may be in violation of two distinct laws: (1) furnishing alcohol to minors and (2) allowing underage drinking to occur on property they control.

Also addressed in this chapter are social host liability laws, which impose civil liability on hosts for injuries caused by their underage guests. Although related to party hosting laws, social host liability laws are distinct. They do not establish criminal or civil offenses, but instead allow injured parties to recover damages by suing social hosts of events at which minors consumed alcohol and later were responsible for injuries. The commercial analog to social host liability laws is dram shop laws, which prohibit commercial establishments—bars, restaurants, and retail sales outlets—from furnishing alcoholic beverages to minors. See the “Social Host Liability” and “Dram Shop Liability” policies for further discussion.

Status of Underage Furnishing Policies

Exceptions to Furnishing Prohibitions

As of January 1, 2017, all states prohibit the furnishing of alcoholic beverages to minors. Nineteen states and the District of Columbia have no family or location exceptions to this prohibition (see Exhibit I.17). Nineteen states have only a family exception. The remaining 12 states have a family exception limited to certain locations, such as any private residence or the parents’ homes.

Affirmative Defense for Sellers and Licensees

As of January 1, 2017, the underage furnishing laws of two states (Michigan and South Carolina) include provisions requiring that a seller/licensee be exonerated of charges of furnishing alcohol to a minor unless the minor involved is also charged.

Trends in Underage Furnishing Policies

As of January 1, 1998, all states prohibited underage furnishing and still do so, although a few states have added exceptions since then (see Exhibit I.18).

Data Sources and Citations

All data for this policy were obtained from <http://www.alcoholpolicy.niaaa.nih.gov>, NIAAA’s APIS. See the policy titled “Furnishing Alcohol to Minors” for further descriptions of this policy and its variables, details regarding state policies, and a review of the limitations associated with the reported data.

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Exhibit I.17: Exceptions to Prohibitions on Furnishing Alcohol to Persons Under Age 21 as of January 1, 2017

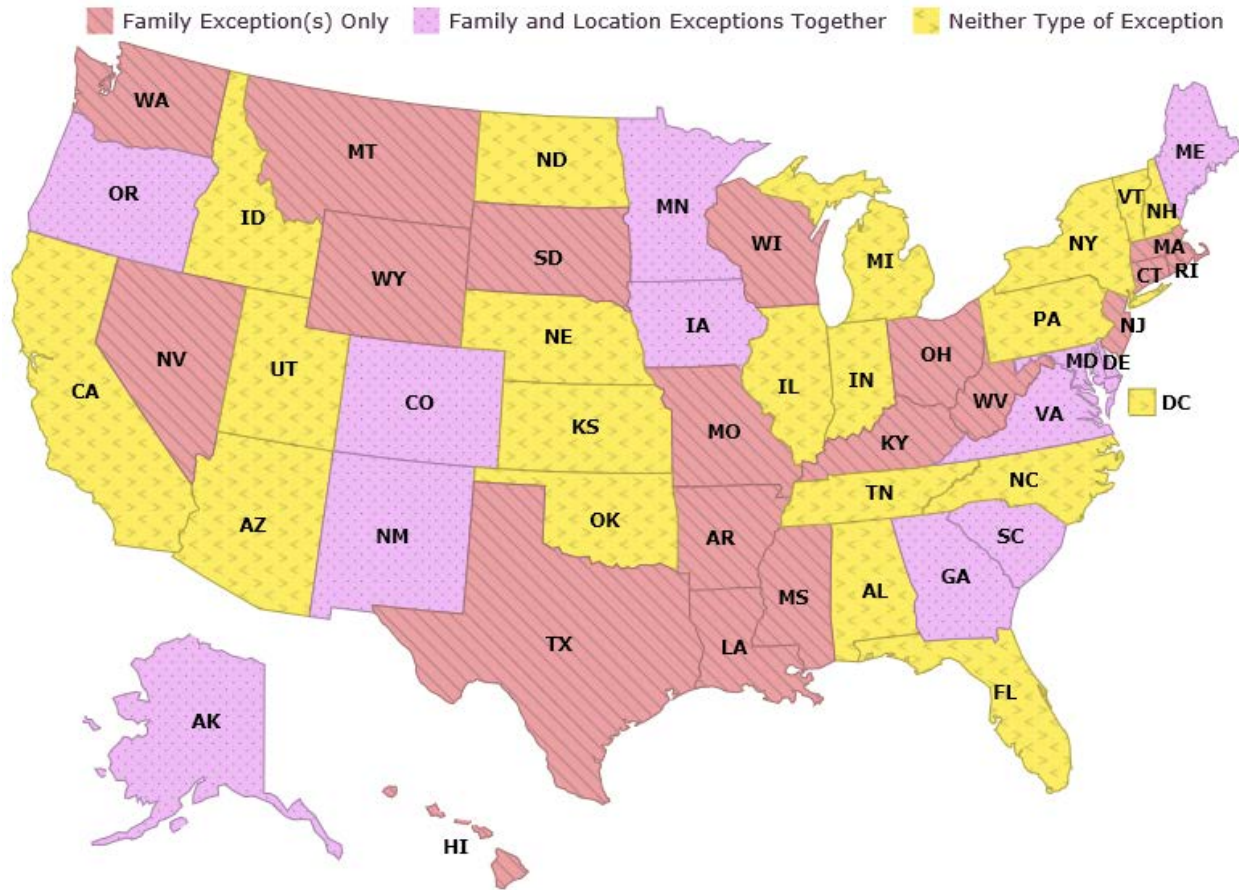
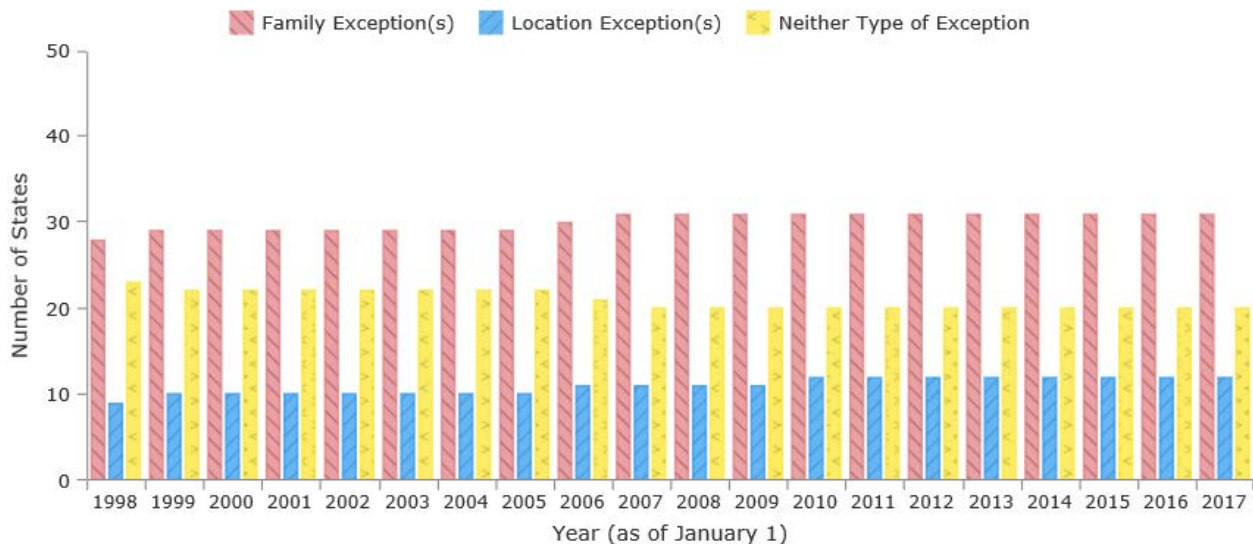


Exhibit I.18: Number of States with Family and Location Exceptions to Prohibition on Furnishing Alcohol to Persons under Age 21, January 1, 1998, through January 1, 2017



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