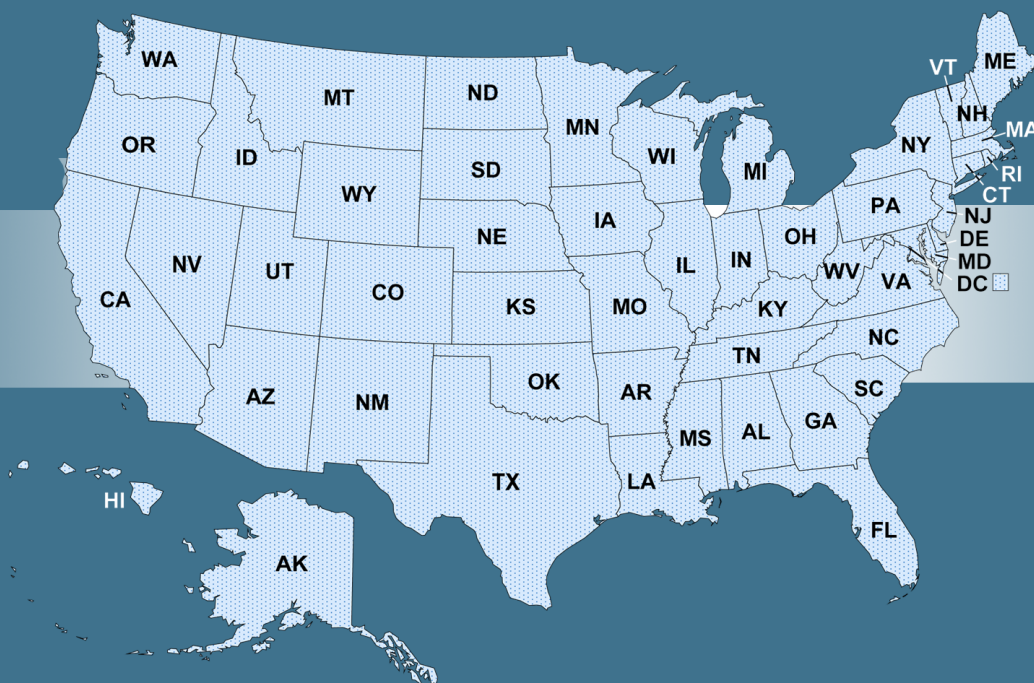


STATE PERFORMANCE & BEST PRACTICES

for the Prevention and Reduction of Underage Drinking

2018



POLICY SUMMARY:

Compliance Check Protocols



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*.

Compliance Check Protocols

Policy Description

Compliance checks involve an underage operative (a “decoy”)—working either with local law enforcement officials or with agents from the state alcoholic beverage control agency (ABC)—who enters an alcohol retail establishment and attempts to purchase an alcoholic beverage from a server, bartender, or clerk.

Protocols for these compliance checks vary from state to state, but in general follow a similar outline. An underage person (allowable ages vary by state) serves as a decoy. Decoys are generally instructed to act and dress in an age-appropriate manner. The decoy enters an alcohol retail outlet and attempts to purchase a predetermined alcohol product (e.g., a six-pack of beer at an off-sale establishment or a mixed drink at an on-sales establishment). Typically, an undercover enforcement officer from a local police department or the state ABC agency observes the decoy. Audio and video recording equipment may also be used or required. State rules vary regarding a decoy’s use of legitimate ID cards (driver’s licenses, etc.), although a few states allow decoys to verbally exaggerate their age. If a purchase is made successfully, the establishment and the clerk or server may be subject to an administrative or criminal penalty.

Most, but not all, states permit law enforcement agencies to conduct compliance checks on a random basis. A few states permit the checks only when there is a basis for suspecting that a particular licensee has sold alcohol to a minor in the past. To ensure that state and local law enforcement agencies are following uniform procedures, most states issue formal compliance check protocols or guidelines. If the protocols are not followed, then the administrative action against the licensee may be dismissed. The protocols are therefore designed to ensure that law enforcement actions are fair and reasonable and to provide guidelines to licensees for avoiding prosecution.

Compliance checks of off- and on-premises licensed alcohol retailers are an important community tool for reducing illegal alcohol sales to minors and promoting community normative change. The 2004 National Research Council (NRC)/IOM report, *Reducing Underage Drinking: A Collective Responsibility* (2004), calls for (a) regular, random compliance checks; (b) administrative penalties, including fines and license suspensions that increase with each offense; (c) enhanced media coverage for the purposes and results of compliance checks; and (d) training for alcohol retailers regarding their legal responsibility to avoid selling alcohol to underage youths.

Compliance checks have both educational and behavior change goals:

1. Change or reinforce social norms that underage drinking is not acceptable by publicizing noncompliant retailers.
2. Educate the community—including parents, educators, and policymakers—about the ready availability of alcohol to youth, which may not be considered a major issue.
3. Increase alcohol retailers’ perception that violation of sales to minors laws will be detected and punished, creating a deterrent effect.
4. Decrease the likelihood that retailers will sell alcohol to minors, thereby reducing youth access to alcohol.

Numerous studies support the contribution of compliance checks to reducing underage access to alcohol. During the early to mid-1990s, before systematic compliance check programs were widely implemented, studies indicated that underage buyers were able to purchase alcohol without showing age identification in 47 to 97 percent of attempts (Preusser & Williams, 1992; Wagenaar & Wolfson, 1995). Observed rates of compliance have increased since then, and several studies suggest that the use of compliance checks does lead to reductions in sales to underage buyers. For example, Grube (1997) demonstrated that outlets subject to compliance checks were about half as likely to sell alcohol on a post-test purchase survey as outlets in the comparison sites. Similarly, in Concord, New Hampshire, sales to youth decreased from 28 percent to 10 percent after quarterly compliance checks (coupled with increased penalties and a media campaign) at 539 off-premises alcohol establishments (CDC, 2004). And in a large study in Minnesota, sales to youth were reduced immediately by 17 percent in alcohol establishments that experienced a check (Wagenaar, Toomey, & Erickson, 2005).

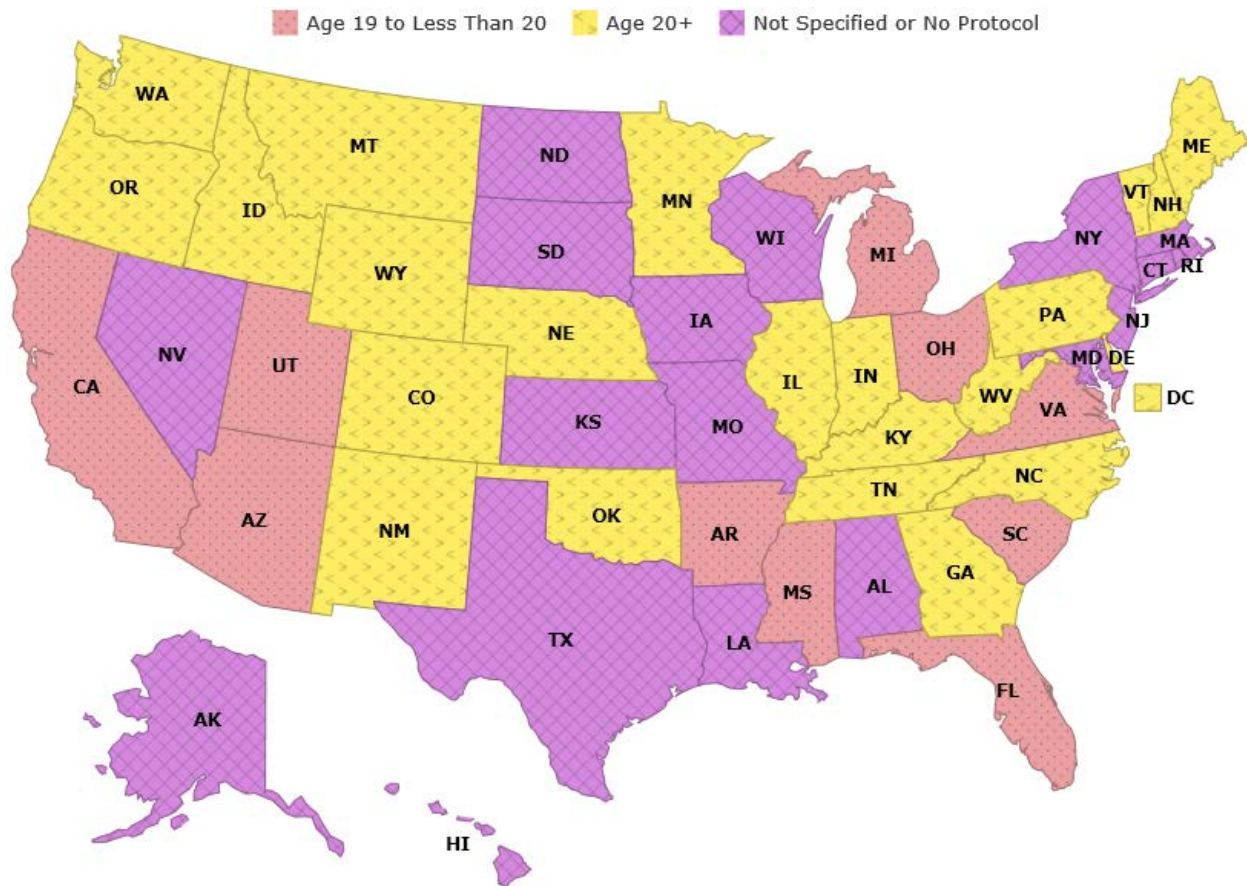
Additional analyses also found that establishments situated near another neighborhood establishment that had been checked within the last 90 days were less likely to sell alcohol to young-appearing buyers, but that these effects decay rapidly over time (Erickson, Smolenski, Toomey, Carlin, & Wagenaar, 2013). The 2016 *Surgeon General's Report on Alcohol, Drugs, and Health* found that compliance checks are an effective strategy for reducing alcohol consumption by minors and can be implemented in conjunction with other population-level alcohol policies (HHS, 2016).

Status of Compliance Check Protocols

Data for this policy were coded from formal compliance check protocols or guidelines. A total of 36 states have formal, written protocols; the remaining states either do not have these protocols or these protocols are not readily available to the public. Compliance check protocols are generally issued by the state police or the state ABC agency. Guidelines vary somewhat in specificity and detail, possibly reflecting differences in the purposes of the checks and the evidentiary standards in each jurisdiction.

The maximum age of the decoy varies from 19 to 21 (only one state lists 21 as the maximum age), with the majority of states requiring that the maximum age of the decoy be 20 (see Exhibit I.19). The minimum age of the decoy ranges from 15 to 18, with 14 states requiring 18 as the minimum age of the decoy.

Thirty-one jurisdictions have guidelines for the decoys' appearance (e.g., appropriately dressed for age, and no hats, excessive makeup, or facial hair). These requirements vary widely by state. At least one state uses an age panel to ensure that the decoys appear underage. Five states allow decoys to verbally exaggerate their age in some situations. Decoy training is mandatory in 15 states. Thirteen states require decoys to have valid identification in their possession at the time of the check while five states prohibit decoys from carrying identification with them during a compliance check.

Exhibit I.19: Maximum Age of Compliance Check Decoys in 2017**Data Sources and Citations**

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. For further information, including definitions of the variables for this policy, contact underagedrinking@samhsa.gov.

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