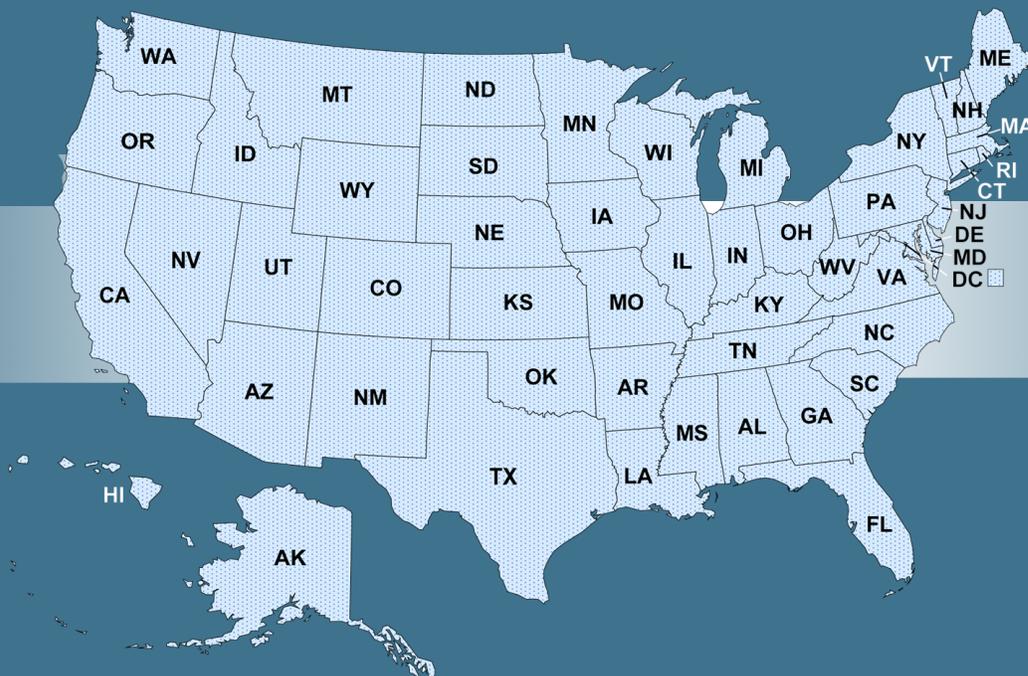


STATE PERFORMANCE & BEST PRACTICES

for the Prevention and Reduction of Underage Drinking

2018



POLICY SUMMARY:

Penalty Guidelines for Sales/Service 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*.

Penalty Guidelines for Sales/Service to Minors

Policy Description

In the majority of states, alcoholic beverage control (ABC) agencies are responsible for adjudicating administrative charges against licensees, including violations for sales or service to those under age 21. Alcohol law enforcement seeks to increase compliance with laws by increasing the level of perceived risk of detection and sanctions. Such deterrence involves three key components: (1) perceived likelihood that a violation will lead to apprehension and sanction; (2) swiftness with which the sanction is imposed; (3) and severity of the sanction (Ross, 1992).

As stated in the 2004 NRC/IOM report, *Reducing Underage Drinking: A Collective Responsibility*, the effectiveness of alcohol control policies depends heavily on the “intensity of implementation and enforcement and on the degree to which the intended targets are aware of both the policy and its enforcement.” The report recommends that “enforcement agencies should issue citations for violations of underage sales laws, with substantial fines and temporary suspension of license for first offenses and increasingly stronger penalties thereafter, leading to permanent revocation of license after three offenses” (NRC & IOM, 2004). See above for a more comprehensive review of enforcement and deterrence research and strategies.

Although alcohol law enforcement agencies may issue the citations, adjudication of the cases is usually handled by another division or agency. States typically include administrative penalties in their statutory scheme prohibiting sales to minors. Penalty provisions are usually broad, allowing for severe penalties but delegating responsibility for determining actual penalties in particular cases to the ABC agencies or to other agencies responsible for adjudicating the cases. Penalties may include warning letters, fines, license suspensions, a combination of fines and suspensions, or license revocation. Agencies may consider both mitigating and aggravating circumstances as well as the number of violations within a given time period, with repeat offenders usually receiving more severe sanctions.

Many ABC agencies issue penalty guidelines to alert licensees to the sanctions that will be imposed for first, second, and subsequent offenses, providing a time period for determining repeat offenses. The agency may treat the guidelines as establishing a set penalty or range of penalties or may treat them as providing guidance, allowing for deviation at the agency’s discretion.

Penalty guidelines that establish firm, relatively severe penalties (particularly for repeat offenders) can increase the deterrent effect of the policy and its enforcement and can increase licensees’ awareness of the risks associated with violations.

Status of Penalty Guidelines for Sales/Service to Minors

At least 28 jurisdictions have defined administrative penalty guidelines for licensees that sell alcohol to an underage youth (see Exhibit I.20). The remaining 23 states either do not have penalty guidelines or do not make them readily available to the public. The guidelines may be based on statute, regulations, and internal policies developed by the agency.

to up to a 30-day suspension for first offenses. See Chapter III below for a review of penalties actually imposed by states for selling to and serving minors.

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.

Barry, R. (2004). Enhanced enforcement of laws to prevent alcohol sales to underage persons: New Hampshire, 1999–2004. *MMWR: Morbidity and Mortality Weekly Report*, 53, 452–454.

National Research Council & Institute of Medicine. (2004). *Reducing Underage Drinking: A Collective Responsibility*. Washington, DC: National Academies Press.