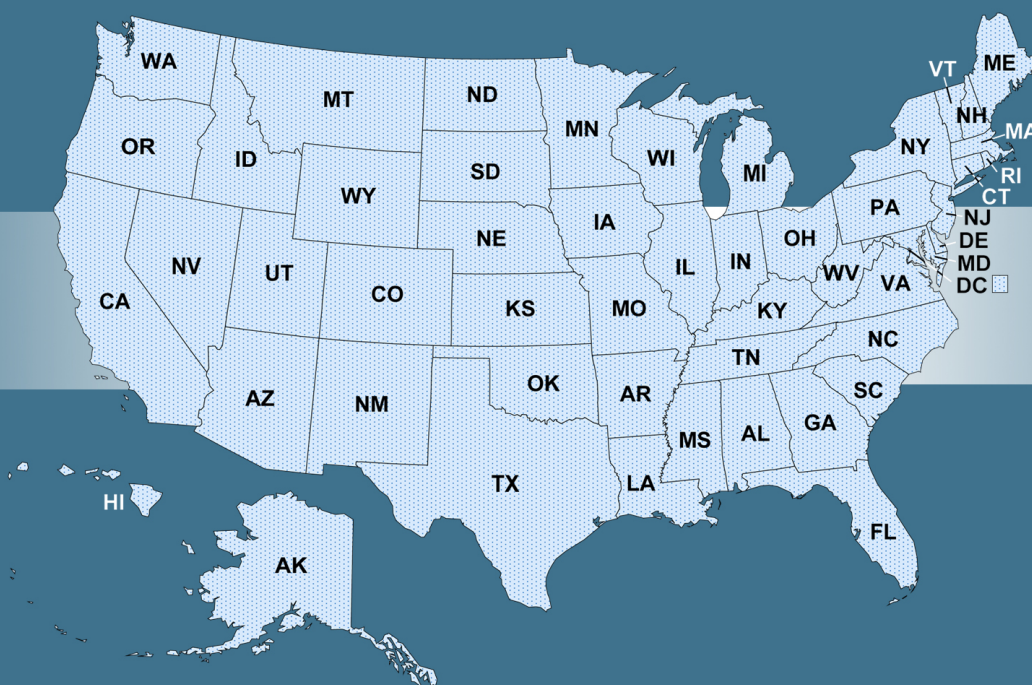


# SUPPLEMENTAL MATERIALS:

## *Definitions of Variables in Legal Policies*

2018



***SAMHSA***  
Substance Abuse and Mental Health  
Services Administration

# Definitions of Variables in Legal Policies

## Underage Possession, Internal Possession, and Consumption

### 1. Conduct Is Prohibited

As of January 1, 2011—subject to certain exceptions listed below—all 50 states and the District of Columbia prohibit possession of alcoholic beverages by persons younger than 21; most jurisdictions prohibit consumption of alcoholic beverages for anyone younger than 21; and several jurisdictions have internal possession laws prohibiting a person younger than 21 from having alcohol in her or his system as determined by a blood, breath, or urine test.

### 2. Exceptions Related to Family

- Parent/guardian: Exception for minors when a parent or guardian consents or is present
- Spouse: Exception for married minors when a spouse consents or is present

Some jurisdictions limit the parent/guardian and spouse exceptions to specific locations.

### 3. Exceptions Related to Location

- In any private location
- In private residences
- In parent/guardian's home only

In some jurisdictions, the location exception is conditional on the presence and consent of the parent, legal guardian, or spouse.

## Underage Purchase and Attempted Purchase

The 2016 Report to Congress on the Prevention and Reduction of Underage Drinking uses two sets of variables for purchase of alcoholic beverages by those under age 21.

### 1. Purchase Prohibited

States may have provisions prohibiting actual or attempted purchase of alcoholic beverages by minors.

### 2. Exemption: Youth May Purchase for Law Enforcement Purposes

States may permit minors to possess and purchase alcohol for law enforcement purposes, typically as part of a program to check merchant compliance with underage drinking laws. A state may have this exemption even if it does not have a law specifically prohibiting underage purchase (making it an exemption to its underage possession law).

## False Identification for Obtaining Alcohol

### 1. Provisions That Target Minors

#### *Use of False Identification (ID) Prohibited*

All states make it a criminal offense for minors to use a false ID when attempting to purchase alcoholic beverages.

***License Suspension***

States may mandate or authorize suspension or revocation of the minor's driver's license as a sanction for violating false ID laws. The suspension can occur through either an administrative or a judicial process. The state agency issuing the driver's license is responsible for administrative actions, which do not involve a judicial proceeding. Judicial suspensions occur as part of a court proceeding after the minor has been found guilty of violating the false ID law (and may be accomplished by a court order issued to the licensing authority). State law may authorize both types of processes. For further discussion of policies pertaining to the suspension or revocation for alcohol infractions of minor's licenses, see the "Loss of Driving Privileges for Alcohol Violations by Minors ("Use/Lose" Laws)" section of this report.

**2. Provisions That Target Suppliers*****Lend/Transfer/Sell***

States may prohibit lending, transferring, or selling valid government-issued IDs to persons to whom they do not belong.

***Production***

States may prohibit altering a valid ID or creating or manufacturing a false ID for the purpose of purchasing alcoholic beverages.

**3. Retailer Support Provisions*****Scanner***

Some states provide incentives to retailers who use electronic scanners that read birth dates and other information digitally encoded on valid ID cards. Incentives may include an affirmative defense in prosecutions for sales to minors if the retailer can show that the scanner was used properly.

***Distinctive Licenses***

States may have a law or regulation that makes driver's licenses for persons younger than 21 easily distinguishable from adult licenses (e.g., by having the picture in profile for one and frontal for the other).

***Seizure of an Identification Document***

States may permit retailers to seize apparently false IDs without fear of prosecution even if the identification is valid. The retailer must act reasonably or in good faith (the standard may vary by state) in order to avoid prosecution.

***Affirmative Defense***

States may grant a retailer a defense in a prosecution involving an illegal alcohol sale to a minor based on the retailer's belief that the minor was of age. There are two types of affirmative defenses:

- **Specific:** The retailer inspected the false ID and came to a reasonable conclusion that it was valid.
- **General:** The retailer came to a good faith or reasonable decision that the minor was of age without necessarily inspecting an ID.

***Right To Sue Minor***

States may allow a retailer the right to sue a minor who uses a false ID to purchase alcohol for any losses or fines suffered by the retailer as a result of the illegal sale.

***Detention of Minor***

State law may give a retailer the authority to detain minors who use false IDs to purchase alcohol. This authority may protect the retailer from liability for false arrest, false imprisonment, slander, or unlawful detention.

## **Youth Blood Alcohol Concentration Limits (Underage Operators of Noncommercial Motor Vehicles)**

**1. BAC Limit**

Blood alcohol concentration (BAC) is a measure of the amount of alcohol in a person's bloodstream. Although BAC is commonly expressed as a percentage, state laws generally specify BAC levels in terms of grams of alcohol per 100 milliliters of blood (often abbreviated as grams per deciliter, or g/dL). BAC limits for young drivers vary among jurisdictions.

## **Loss of Driving Privileges for Alcohol Violations by Minors ("Use/Lose" Laws)**

**1. Types of Violations Leading to License Suspension or Revocation**

Types of violations for which a young person's license may be suspended or revoked include:

- Purchase of alcohol.
- Possession of alcohol.
- Consumption of alcohol.

**2. Upper Age Limit**

The upper age limit is the age below which the license suspension/revocation sanction applies.

**3. Authority To Impose License Sanction**

This variable specifies whether state authority to impose driver's license sanctions for underage alcohol violations is mandatory or discretionary

**4. Length of Suspension/Revocation**

This variable indicates the minimum and maximum number of days of suspension or revocation specified in statutes or regulations. Some states make penalties discretionary but specify periods of time for suspension or revocation.

## **Graduated Driver's Licenses**

**1. Learner Stage*****Minimum Entry Age***

This variable refers to the minimum age at which drivers can operate vehicles in the presence of parents, guardians, or other adults, after all administrative prerequisites of the law in a particular jurisdiction are met, including driver education. This variable does not include the age at which drivers may get permits for the limited purpose of driving only with instructors.

### ***Minimum Mandatory Holding Period***

This variable is the time period (in months) during which learner permits must be held before drivers advance to the intermediate stage of the licensing process.

### ***Minimum Supervised Driving***

This variable refers to the minimum number of hours drivers must log in the presence of parents, guardians, or adults before advancing to the intermediate stage of the licensing process.

## **2. Intermediate Stage**

### ***Minimum Age***

This is the earliest age at which drivers become eligible to drive without adult supervision, after meeting all administrative prerequisites of the laws of individual jurisdictions, including driver education.

### ***Unsupervised Night Driving Prohibited***

This variable refers to the starting hour at which adult supervision is required.

### ***Primary Enforcement of Night-Driving Restrictions***

Law enforcement officers may stop drivers, even if the only basis for the stop is a suspected violation of unsupervised night-driving-hour provisions of graduated driver's licensing (GDL) laws.

### ***Passenger Restrictions***

This variable relates to the total number of passengers allowed in vehicles driven by intermediate-stage drivers.

### ***Primary Enforcement of Passenger Restrictions***

Law enforcement officers may stop drivers even if the only basis for the stop is a suspected violation of the passenger restriction provisions of GDL laws.

## **3. License Stage**

### ***Minimum Age To Lift Restrictions***

This is the minimum age for full licensure privileges and the lifting of passenger and night-driving restrictions.

## **Furnishing Alcohol to Minors**

### **1. Prohibition against Furnishing of Alcoholic Beverages to Minors**

All states make it illegal to furnish alcoholic beverages to minors; most states allow exceptions.

#### ***Parent, Guardian, or Spouse Exception***

Some states allow exceptions when a parent/guardian or spouse supplies the alcoholic beverage.

#### ***Location Limits to Exceptions***

Some jurisdictions limit the parent, guardian, and spouse exception to specific locations. All of these location exceptions are conditional on the presence and consent of the parent, legal guardian, or spouse. Location limits related to exception may include in any private location, in private residences, or in a parent/guardian's home only.

## **2. Affirmative Defense for Sellers and Licensees**

### ***Minor Not Charged***

Some state laws include provisions requiring that the seller/licensee be exonerated of charges of furnishing alcohol to a minor unless the minor involved is charged.

## **Compliance Check Protocols**

### **1. Age of Decoy**

- Minimum—the minimum age a decoy may be to participate in a compliance check
- Maximum—the maximum age a decoy may be to participate in a compliance check

### **2. Appearance of Decoy**

General appearance requirements—for example, decoys must appear their chronological age to a reasonable person or dress appropriately for the geographical area. Specific appearance requirements may apply to men and women.

### **3. ID Possession**

Indicates whether a decoy must carry a valid ID, is prohibited to carry a valid ID, or may specify that the decision is discretionary.

### **4. Verbal Exaggeration of Age**

This variable refers to whether the decoy may verbally exaggerate his or her actual age.

### **5. Decoy Training**

Formal training of decoys may be mandated. Brief reviews of guidelines and rules immediately prior to a compliance check are not considered formal training.

## **Commercial Furnishing: Penalty Protocols**

### **1. Time Period**

Many states establish a time period for defining second, third, and subsequent offenses. If the subsequent offense occurs outside of this time period, the infraction is considered a first offense, and enhanced penalties for multiple offenses will not apply.

### **2. Number of Offenses**

States define the minimum or maximum fine and days of suspension for each additional offense within the specified time period and the age of the youth (if applicable).

## **Responsible Beverage Service (RBS)**

### **1. Law Type**

- Mandatory—states that require at least some alcohol servers/sellers, managers, and licensees to attend training
- Voluntary—states that provide incentives to licensees for having their servers/sellers, managers, and licensed individuals participate in training programs
- No law—states that have no statutory or regulatory provisions pertaining to mandatory or voluntary responsible beverage service training

## 2. Mandatory States: Training Required

State provisions for mandatory programs vary widely on who must participate. The categories include licensees, managers, and servers/sellers, or combinations of these categories.

## 3. Voluntary States

States with voluntary programs may offer various types of incentives to encourage licensees to participate in responsible beverage service training programs. States may offer some or all of the following incentives:

- Defense in dram shop liability lawsuits
- Discounts of various kinds, for example discounts in dram shop liability insurance or license fees
- Mitigation of fines or other administrative penalties for sales to minors or sales to intoxicated persons
- Protection against license revocation for sales to minors or sales to intoxicated persons

## 4. Application of RBS Training

Mandatory or voluntary RBS training provisions may apply to on-premises establishments, off-premises establishments, or both. They may apply to new licensees, existing licensees, or both. In some cases, states do not specify whether the provisions apply to either or both.

## Minimum Ages for Off-Premises Sellers

### 1. Minimum Age To Sell

This is the minimum age specified by statute or regulation for off-premises sellers of beer, wine, and spirits.

### 2. Manager or Supervisor Must Be Present

This is a requirement, beyond those otherwise mandated for all sellers in a jurisdiction, that a manager or supervisor be present when underage persons are selling alcoholic beverages.

## Minimum Ages for On-Premises Servers and Bartenders

### 1. Minimum Ages

- **To Serve:** The minimum age specified for on-premises servers of beer, wine, and spirits
- **To Bartend:** The minimum age specified for bartenders to sell or dispense beer, wine, and spirits

### 2. Manager or Supervisor Must Be Present

Under this requirement, managers or supervisors must be present when underage persons are serving or dispensing alcoholic beverages.



## **Distance Limitations Applied to New Alcohol Outlets Near Universities, Colleges, and Primary and Secondary Schools**

States are coded to display the distance limitations that apply to locating new off-premises or on-premises outlets from colleges and universities and from primary and secondary schools. The beverage types (i.e., beer, wine, or spirits) subject to any limitations are also specified.

### ***Colleges and Universities***

- *Off-Premises Outlet*: This variable indicates whether a state regulates the location of any new outlet that sells alcohol to be consumed off the premises (e.g., liquor stores) within a certain distance from colleges and universities.
- *On-Premises Outlet*: This variable indicates whether a state regulates the location of any new outlet that sells alcohol to be consumed on the premises (e.g., bars and restaurants) within a certain distance from colleges and universities.
- *Alcohol Products*: This variable specifies the beverage subject to regulation (i.e., beer, wine, and spirits).
- *Other Exceptions*: This variable describes any exceptions that apply generally to all outlets.

### ***Primary and Secondary Schools***

- *Off-Premises Outlet*: This variable indicates whether a state regulates the location of any new outlet that sells alcohol to be consumed off the premises (e.g., liquor stores) within a certain distance from primary and secondary schools.
- *On-Premises Outlet*: This variable indicates whether a state regulates the location of any new outlet that sells alcohol to be consumed on the premises (e.g., bars and restaurants) within a certain distance from primary and secondary schools.
- *Alcohol Products*: This variable specifies the beverage subject to regulation (i.e., beer, wine, and spirits).
- *Other Exceptions*: This variable describes any exceptions that apply generally to all outlets.

## **Dram Shop Liability**

States are coded for the existence of statutory dram shop liability and common law liability. A dram shop liability designation in a state report signifies that the state allows lawsuits by injured third parties against alcohol retailers for the negligent furnishing of alcohol to a minor.

Common law liability assumes the following procedural and substantive rules:

- A negligence standard applies (i.e., the defendant was negligent because he/she did not act as a reasonable person would be expected to act in like circumstances). Plaintiffs do not need to show that the defendant acted intentionally, willfully, or with actual knowledge of the minor's underage status.
- Damages are not arbitrarily limited. If successful in establishing negligence, the plaintiff receives actual damages and has the possibility of seeking punitive damages.
- Plaintiffs can pursue claims against defendants without regard to the age of the person who furnished the alcohol and the age of the underage person furnished with alcohol.
- Plaintiffs must establish only that the minor was furnished alcohol and that furnishing contributed to injury without regard to the minor's intoxicated state at the time of the sale.



- The plaintiff must establish the key elements of the lawsuit by the “preponderance of the evidence” rather than a more rigorous standard (e.g., the “beyond a reasonable doubt” usually applied in criminal cases).
- A statutory liability “yes” code indicates that dram shop liability exists through statutory enactment. Three types of limitations are coded:
  - Limitations on damages—statutory caps on the total dollar amount that may be recovered through a dram shop lawsuit.
  - Limitations on who may be sued—factual requirement that persons furnishing alcohol are above a certain age, or that underage persons furnished with alcohol are below a certain age.
  - Limits on elements or standards of proof—legislative requirements that plaintiffs prove additional facts or meet a more rigorous standard of proof than would normally apply in common law. These can include:
    - Requiring proof that the retailer had knowledge that the minor was underage or that the retailer “willfully served” the minor.
    - Allowing recovery only if the minor was intoxicated or obviously intoxicated at the time of furnishing.
    - Requiring “clear and convincing” evidence or “evidence beyond a reasonable doubt” for the plaintiff to prevail.

If no limitations are listed, the statute imposes common law standards.

An RBS defense notation indicates that the dram shop statute has a provision that allows retailers to avoid liability. Affirmative defenses provide that retailers can avoid liability if they can demonstrate that they had RBS training programs in place and that the retailers’ staff followed RBS procedures at the time of the incidents. Complete defenses allow retailers to avoid liability by showing only that they attended RBS training.

Note that states may impose other restrictions on dram shop liability claims. This report does not track possible additional limitations, including:

- The ability of minors who were furnished alcohol to sue the alcohol retailers for self-inflicted injuries, termed “first-party claims.”
- The ability of the minors’ companions to sue the retailers.
- The existence of various defenses (e.g., contributory or comparative negligence) or procedural requirements (e.g., notice provisions and shortened statute of limitation periods) that may affect the outcome of the litigation.

## **Social Host Liability**

States are coded for the existence of statutory social host liability and common law liability. A social host liability designation in a state report signifies that the state allows lawsuits by injured third parties against social hosts for the negligent furnishing of alcohol to minors.

Common law liability assumes the following procedural and substantive rules:

- A negligence standard applies (i.e., defendants did not act as reasonable persons are expected to in like circumstances). Plaintiffs do not need to show that defendants acted intentionally, willfully, or with actual knowledge of the minors’ underage status.

- Damages are not arbitrarily limited. If successful in establishing negligence, plaintiffs receive actual damages and can seek punitive damages.
- Plaintiffs must establish only that minors were furnished alcohol and that the furnishing contributed to the injury, without regard to the minors' intoxicated state at the time of furnishing.
- Plaintiffs must establish key elements of lawsuits by "preponderance of the evidence" rather than a more rigorous standard (e.g., "beyond a reasonable doubt" in criminal cases).

A statutory liability "yes" code indicates that social host liability exists through statutory enactment. Three types of limitations are coded:

- Limitations on damages—statutory caps on the total dollar amount that may be recovered through social host lawsuits.
- Limitations on who may be sued—factual requirement that persons furnishing alcohol are above or that underage persons furnished with alcohol are below a certain age.
- Limits on elements or standards of proof—legislative requirements that plaintiffs prove additional facts or meet a more rigorous standard of proof than would normally apply in common law.

These can include:

- Proof that social hosts had knowledge that minors were underage or that social hosts "willfully served" minors.
- Allowing recovery only if minors were intoxicated at the time of furnishing.
- Clear and convincing evidence or evidence beyond a reasonable doubt.

If no limitations are listed, the statute imposes common law standards. Note that states may impose other restrictions on social host liability claims. This report does not track potentially additional limitations, including:

- The ability of minors who were furnished alcohol to sue the social hosts for self-inflicted injuries—"first party claims."
- The ability of the minors' companions to sue the social hosts.
- The existence of various defenses (e.g., contributory or comparative negligence), or procedural requirements (e.g., notice provisions and shortened statute of limitation periods) that may affect the outcome of litigation.

## Prohibitions Against Hosting Underage Drinking Parties

### 1. Statutes Specific to Underage Parties or General Statutes

"Specific" statutes explicitly address underage drinking parties by making reference to the words "party," "gathering," "open house," "hosting," and similar terms with respect to property owned, leased, or otherwise controlled by the social host. "General" statutes prohibit individuals from allowing or permitting underage drinking on their properties generally, without reference to parties, gatherings, or a similar term. "General" laws have a broader scope than underage drinking parties (e.g., they may also prohibit adults from allowing minors to consume alcohol in settings other than the adult's home), but are applicable to underage drinking parties.

## **2. Action by Underage Guests**

This variable identifies the specific underlying activity by underage guests that triggers violations. Underage guests must possess, consume, or have the intention to possess or consume to trigger a violation.

### 3. Property Type

Jurisdictions vary regarding the types of property covered by host party laws, including residences, outdoor property, or other sorts of property such as a shed, garage, or other outbuilding, or a hotel or motel room, campground, or other public site.

### 4. Knowledge Standard

- Overt act—the host must have actual knowledge of specific aspects of the party, and must commit an act that contributes to its occurrence.
- Knowledge—the host must have actual knowledge of specific aspects of the party; no action is required.
- Recklessness—the host may not have acted with actual knowledge of the party, but must act with intentional disregard for the probable consequences of his or her actions.
- Criminal negligence—the host fails to perceive a substantial and unjustifiable risk that unlawful circumstances associated with the party exist.
- Negligence—the host knew or should have known of the event’s occurrence (in legal terminology this is referred to as “constructive knowledge”).

### 5. Preventive Action Negates Violation

In some jurisdictions, preventive action of various sorts by the social host may negate state-imposed liability. This analysis notes only that some jurisdictions permit preventive action to negate violations, but does not identify the specific actions that would do so as those vary widely across jurisdictions.

### 6. Exceptions to Underage Guest Requirement

Some jurisdictions with host party laws have exceptions in their statutes for family members or other persons, or for other uses or settings involving the handling of alcoholic beverages.

## Retailer Interstate Shipments of Alcohol

States may prohibit or permit shipment of beer, wine, and/or spirits from an out-of-state retailer directly to a consumer’s residence. The law may also be uncertain as to whether the out-of-state retailer may ship or whether the consumer may receive any of these beverages. States are coded by the status of the law according to beverage type.

#### 1. Beer

Retailer interstate shipment of beer is prohibited, permitted, or uncertain.

#### 2. Wine

Retailer interstate shipment of wine is prohibited, permitted, or uncertain.

#### 3. Spirits

Retailer interstate shipment of spirits is prohibited, permitted, or uncertain.

## Direct Shipments/Sales

### 1. Direct Sales/Shipments from Producers to Consumers Are Permitted, Specified by Beverage

Some producers are permitted to ship directly to individuals via common carriers. If permitted, the type(s) of alcoholic beverages allowed for shipment are indicated (beer, wine, and distilled spirits). Limitations on the amount that may be shipped or received and the types of producers that may ship are not recorded unless the limitations are so severe as to constitute a practical ban on direct shipments.

### 2. Age Verification Requirements

If a requirement is not listed, it does not exist for the particular jurisdiction:

- Purchasers must make mandatory trips to producers (for age verification purposes) before delivery can be authorized.<sup>1</sup>
- Producers/shippers must verify age of purchasers prior to sale. (The relevant legal provision requires affirmative action to verify the ages of purchasers.)
- Common carriers (deliverers) must verify age of recipients prior to delivery. (The relevant legal provision requires affirmative action to verify the ages of the purchasers.)

### 3. State Approval/Permit Requirements

If a requirement is not listed, then it does not exist for the particular jurisdiction.

- Producers/manufacturers must obtain licenses or permits from a state agency prior to shipping directly to consumers.
- Common carriers must be approved by a state agency.

### 4. Recording/Reporting Requirements

If a requirement is not listed, then it does not exist for the particular jurisdiction.

- Producers/manufacturers must record/report purchasers' names for possible inspection by a state agency.
- Common carriers must record/report recipients' names for possible inspection by a state agency.

### 5. Shipping Label Requirements

There are two possible text requirements for the label used to ship alcohol to consumers.

If a requirement is not listed, then it does not exist for the particular jurisdiction.

- Package contains alcohol.
- Recipient must be 21 years old.

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<sup>1</sup> Laws that require face-to-face transactions for all sales prior to delivery are treated as prohibitions on direct sales/shipments.

## **Keg Registration**

### **1. Definition of a Keg**

In most states, kegs are defined by minimum volume in gallons. In some states, an exact volume is specified; in other states, the volume may be defined as “greater than,” “greater than or equal to,” “less than,” or “less than or equal to” some volume. In a small number of cases, no definition of keg is established by statute or regulation.

### **2. Prohibited**

Some states stipulate that a person may not:

- Possess unregistered or unlabeled kegs.
- Destroy the label on a keg.

Where such prohibitions exist, statutes or regulations may specify a maximum penalty in terms of jail time, fine, or both.

### **3. Purchaser Information Collected**

In some states, information on purchasers of kegs is collected at the time of sale. This information may include any combination of the following: (1) names, (2) driver’s license or other government-issued identification numbers, or (3) addresses at which kegs will be consumed. Variations on how the information is gathered may include the following:

- The retailer is required to record purchasers’ identification numbers or the forms of identification presented by purchasers together with the purchasers’ names, addresses, and dates of birth.
- The purchasers’ names and addresses must be recorded as they appear on identification produced by purchasers.

### **4. Warning Information to Purchaser**

Some states require that warning information be presented to purchasers concerning violation of any laws related to keg registration. These warnings can address prohibitions such as serving alcohol to minors or failing to register kegs properly. The warning may be active (requiring an action on the part of the purchaser, e.g., signing a document) or passive (requiring no action on the part of the purchaser).

### **5. Deposit Required by Statute or Regulation**

In addition to deposits that may be required by the vendor, some states require deposits as part of their keg registration policies. These deposits may be on the kegs themselves, the tapper mechanisms used to serve the beer, or both, and are refundable when empty kegs and tappers are returned to the merchant. In some cases, multiple deposits may be specified depending on the size of the kegs.

### **6. Disposable Kegs**

Disposable kegs (meant to be disposed of when empty) complicate keg registration laws, as they cannot be easily tagged or traced. Some states currently address disposable kegs by statute or regulation, and others do not.

## Home Delivery

States may prohibit, permit, or permit with restrictions the delivery of beer, wine, and or spirits. States may also have no law regarding delivery of any or all of these beverages.

### Variable 1a: Beer

1. Home delivery of beer is prohibited.
2. Home delivery of beer is restricted (restrictions described in Beer Notes field).
3. Home delivery of beer is permitted.
4. No law.

### Variable 1b: Wine

1. Home delivery of wine is prohibited.
2. Home delivery of wine is restricted (restrictions described in Wine Notes field).
3. Home delivery of wine is permitted.
4. No law.

### Variable 1c: Spirits

1. Home delivery of spirits is prohibited.
2. Home delivery of spirits is restricted (restrictions described in Spirits Notes field).
3. Home delivery of spirits is permitted.
4. No law.

## High-Proof Grain Alcoholic Beverages

Some states restrict the sale of high-proof grain alcoholic beverages. These restrictions differ depending on whether they are based on Alcohol by Volume (ABV) or brand.

### 1. Restriction Exists

This variable indicates whether a state has any restrictions on the sale of high-proof grain alcoholic beverages and whether it is an alcohol control state.

### 2. Restrictions Based on ABV

This variable indicates whether the restrictions on the sale of high-proof grain alcoholic beverages, if any exist, are based on ABV and if so, specify the ABV.

### 3. Restrictions Are Brand-Specific?

This variable indicates whether the restrictions on the sale of high-proof grain alcoholic beverages, if any exist, are based on brand and if so, specify the brand.

### 4. Exceptions

This describes any exceptions to the restriction on the sale of high-proof grain alcoholic beverages that apply.



## Alcohol Taxes

For this policy, taxes are reported for an *index beverage* that represents the largest market share for beer (5% alcohol by volume), wine (12% alcohol by volume), and spirits (40% alcohol by volume). Taxes are not reported for states where the index beverage is wholly or partially sold in state-run retail stores or through state-run wholesalers. In these cases, the state sets a price that is some combination of cost, markup, and taxes. It is not possible to determine the dollar value assigned to each of these components. Such states are reported as “control.”

### Beer

1. Specific excise tax—tax per gallon on beer of 5% alcohol
2. Ad valorem excise tax (on-premises sales)—tax on total receipts for beer of 5% alcohol
3. Ad valorem excise tax (off-premises sales)—tax on total receipts for beer of 5% alcohol
4. Notes include:
  - A listing of taxes on beer in the range of 3.2% to 6% alcohol, in addition to those taxes reported in variables 1 to 3.
  - Whether ad valorem excise taxes are applied at the wholesale or retail level—only wholesale is noted. If there is no note, the tax is applied at retail.
  - A notation in states where sales tax is not levied when ad valorem excise taxes are levied. This notation gives the sales tax rate and the “sales tax adjusted retail ad valorem excise tax(es)” calculated as the on- and off-premises retail ad valorem excise tax minus the (unlevied) sales tax.

### Wine

1. Specific excise tax—tax per gallon on wine of 12% alcohol
2. Ad valorem excise tax (on-premises sales)—tax on total receipts for wine of 12% alcohol
3. Ad valorem excise tax (off-premises sales)—tax on total receipts for wine of 12% alcohol
4. Notes include:
  - A listing of taxes on wine in the range of 6% to 24% alcohol in addition to those taxes reported in variables 5 to 7.
  - Whether ad valorem excise taxes are applied at the wholesale or retail level—only wholesale is noted. If there is no note, the tax is applied at retail.
  - This notation gives the sales tax rate and the “sales tax adjusted retail ad valorem excise tax(es)” calculated as the on- and off-premises retail ad valorem excise tax minus the (unlevied) sales tax.

### Spirits

1. Specific excise tax—tax per gallon on spirits of 40% alcohol
2. Ad valorem excise tax (on-premises sales)—tax on total receipts for spirits of 40% alcohol

3. Ad valorem excise tax (off-premises sales)—tax on total receipts for spirits of 40% alcohol
4. Notes include:
  - A listing of taxes on spirits in the range of 15% to 50% alcohol in addition to those taxes reported in variables 9 to 11.
  - Whether ad valorem excise taxes are applied at the wholesale or retail level—only wholesale is noted. If there is no note, the tax is applied at retail.
  - This notation gives the sales tax rate and the “sales tax adjusted retail ad valorem excise tax(es)” calculated as the on- and off-premises retail ad valorem excise tax minus the (unlevied) sales tax.

## **Low-Price, High-Volume Drink Specials**

### **Free Beverages**

1. Prohibited.
2. Not prohibited—notes identify states that allow a licensee to offer a free drink on a case-by-case basis *only* (e.g., on a birthday or anniversary, as compensation for poor services).

### **Multiple Servings at One Time**

1. Prohibited.
2. Not prohibited—if a state only prohibits “more than two servings” but allows the customer to possess two servings at one time, then this state is not counted as Not Prohibiting “multiple servings.” Two different alcoholic beverages served at the same time to a single customer, if such “drink” is a customary combination (such as a shot of spirituous liquor with a malt beverage), is considered one drink.

### **Multiple Servings for a Single Serving Price (e.g., two-for-one, three-for-one)**

1. Prohibited.
2. Not prohibited—notes identify states that do not prohibit multiple servings for a single serving price, but place restrictions on this practice. There are currently no notes for this variable.

### **Happy Hours—Reduced Price**

1. Prohibited.
2. Restricted—notes identify hours when happy hours occur. Reduced price may not be offered.
3. Not prohibited.

### **Unlimited Beverages for Fixed Price or Period (e.g., all-you-can-drink, beat-the-clock)**

1. Prohibited.
2. Not prohibited—notes identify states that do not prohibit unlimited beverages for a fixed price or period, but place restrictions on this practice.

### Increased Volume Without Increase in Price

1. Prohibited.
2. Not prohibited—notes identify hours when double or triple shots for a single serving price may not be offered.

### Wholesaler Pricing Restrictions

For this policy, an index beverage has been selected: beer (5%), wine (12%), and spirits (40%). If the index beverage is controlled, in whole or in part, by the state at the wholesale level, the state is coded as “control,” and no additional coding is displayed.

- **Pricing restrictions exist**
  - a. Yes
  - b. No (no further coding is provided)
- **Volume discounts**—wholesalers are allowed to offer a discount to retailers for the purchase of large quantities.
  - a. Banned—wholesalers are not allowed to offer a discount to retailers based on volume or quantity. The Note field briefly summarizes applicable statutes and regulations.
  - b. Restricted—there is a limit on the quantity for which a discount may be offered. The Note field briefly summarizes applicable statutes and regulations.
  - c. Uncertain—due to case law (ongoing court cases affect the application of the volume discounts). The Note field briefly summarizes applicable court cases.
  - d. No law.
- **Minimum markup, maximum discount**—wholesalers must establish a minimum markup or maximum discount for each product sold to retailers and are prohibited from selling any product below cost.
  - a. Yes—wholesalers may not sell below cost or must establish a minimum markup or maximum discount for each product sold to retailers. The Note field briefly summarizes applicable statutes and regulations. Collected laws include only those specific to beverage alcohol.
  - b. Uncertain—due to case law (ongoing court cases affect the application of minimum markup, maximum discount). The Note field briefly summarizes applicable court cases.
  - c. No law.
- **Post and hold**—wholesalers must publicly “post” prices of their alcohol products (i.e., provide a list of prices to a state agency or send a notice for review by retailers and competitors) and may not reduce these prices for a set amount of time.
  - a. Post and hold—both posting of prices and holding (i.e., not reducing) prices for a specified period of time are required. The Note field indicates the minimum “hold” time and briefly summarizes applicable statutes and regulations.
  - b. Post—posting is required but a “hold” period is not stated or is not clearly defined. The Note field briefly summarizes applicable statutes and regulations.
  - c. Uncertain—due to case law (ongoing court cases affect the application of post and hold). The Note field briefly summarizes applicable court cases.
  - d. No law.

- ***Retailer credit permitted***—loans from wholesalers to retailers are permitted or the period of time required for retailers to pay invoices is specified.
  - a. Yes—the Note field indicates the maximum time credit can be extended and briefly summarizes applicable statutes and regulations.
  - b. No—transactions must be in cash or payment is due prior to or at the time of delivery. The Note field briefly summarizes applicable statutes and regulations.
  - c. Uncertain—due to case law (ongoing court cases affect the application of retailer credit restrictions). The Note field briefly summarizes applicable court cases.
  - d. No law.



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