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# Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices



Prepared by  
**Pacific Institute**  
FOR RESEARCH AND EVALUATION

In support of the  
**OJJDP Enforcing  
Underage Drinking Laws Program**



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# About This Guide

People who care about young people are aware of the serious problems caused by underage alcohol use. They should also be aware that there are many effective strategies for reducing underage drinking. Every State and community should be using these strategies.

State and local laws and regulations have the potential to be particularly effective in reducing underage access to alcohol. The right laws and regulations can minimize opportunities for young people to use alcohol and maximize the opportunities for effective enforcement and prevention.

This document provides guidance on the best practices for shaping and implementing laws and regulations to

- Restrict the *commercial availability* of alcohol to youth, with a focus on the practices of alcohol retailers;
- Restrict *social availability* to youth, with a focus on noncommercial sources of alcohol and noncommercial venues where young people consume alcohol; and
- Restrict *youth possession* to deter young people from attempting to purchase or consume alcohol.

State and local policymakers and concerned citizens can use the guide to

- Assess the existing laws and regulations in their jurisdiction;
- Identify gaps, loopholes, and areas for improvement;
- Identify strengths upon which effective enforcement strategies can be built;
- Persuade legislatures and local policymaking bodies that changes are needed; and
- Motivate enforcement and regulatory agencies to strengthen enforcement of existing laws and policies.

Well-crafted laws and regulations form the basis of effective strategies to reduce underage alcohol use. This guide can help States and localities to build a strong base for action.



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# Overview

State and local regulations—laws, ordinances, policies—form the framework of any effort to reduce underage drinking. The right regulations, well crafted, can minimize the opportunities for young people to use alcohol and maximize opportunities for effective and efficient enforcement. The absence of an important regulation, or loopholes in the regulation, can put youth in harm’s way and frustrate enforcement efforts.

This guide provides information on the regulations that are most important in reducing youth access to alcohol and underage drinking. It spells out the best practices for establishing appropriate laws and regulations and suggests priorities for regulatory and enforcement efforts. It also discusses some of the implementation issues that will be crucial for the successful adoption and implementation of these regulatory strategies.

The guide divides regulations into the following three categories, depending on which aspect of youth access or use they address:

1. **Commercial availability**, which focuses on the practices of alcohol retailers such as liquor or grocery stores and bars;
2. **Social/public availability**, which focuses on noncommercial sources of alcohol (such as older friends) and noncommercial venues where young people consume alcohol (such as parties); and
3. **Youth possession**, which focuses on deterring young people from attempting to purchase or consume alcohol.

For each type of regulation, the guide discusses

- The available research literature on effectiveness;
- Features of good laws;
- Pitfalls to avoid; and
- Examples of States or communities that have used the regulation successfully.

## Best Practices

Each section of the guide includes “best practice” recommendations. By scanning the best practices, a State or community can identify gaps and areas for improvement, as well as strengths upon which effective enforcement campaigns can be built.

Following are the best practices for each regulatory category.

### Commercial availability

#### *Best Practice #1: Ban commercial sales and gifts to minors.*

Prohibit all commercial sales, gifts, or other methods of furnishing alcohol to minors without exception, and provide vendors an affirmative defense regarding apparently valid, but false, identification.

#### *Best Practice #2: Restrict the location of alcohol outlets.*

Create buffer zones that extend at least 1,000 feet to separate alcohol outlets from schools, youth facilities, and residential neighborhoods; that can be applied retroactively; and that permit only limited exceptions based on local circumstances.

#### *Best Practice #3: Restrict alcohol sales at community events.*

Strictly limit alcohol sales and alcohol industry sponsorships at youth- and family-oriented community events; impose strict conditions designed to reduce youth access at special events where alcohol is sold.

#### *Best Practice #4: Restrict the age of alcohol servers and sellers.*

Require that all retail alcohol outlet employees who are engaged in the sale or service of alcohol be at least 21 years of age.

#### *Best Practice #5: Restrict minors’ access to bars and nightclubs.*

Prohibit minors from entering bars and nightclubs, which should be clearly distinguished from restaurants.

#### *Best Practice #6: Install and use drivers license scanners.*

Create easy-to-inspect and difficult-to-alter State drivers licenses and identification cards, and require the installation and use of drivers license scanners by all alcohol retailers over a phase-in period.

#### *Best Practice #7: Regulate home delivery and Internet/ mail-order sales.*

Prohibit home delivery of alcohol, and either prohibit or strictly regulate Internet/mail-order alcohol sales.

#### *Best Practice #8: Mandate responsible beverage service programs.*

Initiate, and over time, mandate communitywide responsible beverage service programs designed in conjunction with compliance checks and other policy interventions.

#### *Best Practice #9: Carry out compliance check programs.*

Institute comprehensive compliance check programs that are ongoing and communitywide; include a media advocacy component, and follow strict guidelines to ensure fairness.

#### *Best Practice #10: Impose appropriate penalties for commercial violations.*

Impose strict administrative penalties on retail licensees for violations of sales-to-minors laws, which increase with severity for repeated offenses. Complement administrative penalties in serious cases by permitting civil liability lawsuits against licensees based on common law negligence principles and by imposing criminal sanctions.



## Social/public availability

### *Best Practice #11: Restrict noncommercial furnishing of alcohol to minors.*

Prohibit any person from furnishing alcohol to a minor, with very few exceptions.

### *Best Practice #12: Implement beer keg registration.*

Enact beer keg registration laws that apply to beer containers of 4 gallons or larger; require a minimum \$50 deposit and technology that deters identification tag removal.

### *Best Practice #13: Implement “shoulder-tap” enforcement programs.*

Implement shoulder-tap enforcement programs to deter adult strangers from buying alcohol for minors. Programs should target problematic locales. Instruct retailers regarding their role in preventing shoulder tapping; if the practice continues repeatedly outside a retail establishment and the retailer refuses to take action despite instruction and warning, utilize public nuisance regulations to impose sanctions.

### *Best Practice #14: Implement teen party ordinances.*

Prohibit teen drinking parties at private residences, and impose fines and fees on homeowners or renters for law enforcement services.

### *Best Practice #15: Restrict and monitor teen parties at motels and hotels.*

Develop community programs to ensure that teen parties do not occur in hotels and motels; if minibars are permitted, the establishments should be required to strictly monitor their use by young people.

### *Best Practice #16: Establish alcohol restrictions in public locations.*

Prohibit or strictly limit alcohol consumption and open containers in unsupervised public locations such as

beaches, parks, parking lots, and recreation facilities. Require hosts who serve alcohol at private functions in these venues to obtain permits that include responsible beverage service guidelines and a refundable deposit to cover any enforcement costs.

### *Best Practice #17: Apply appropriate penalties to illegal transactions in noncommercial settings.*

Impose civil penalties where applicable; impose a range of criminal penalties and civil liability, either separately or in addition to applicable civil penalties. To increase the penalties’ deterrent effects, establish streamlined procedures for imposing sanctions in cases that do not involve serious community disruption, large teen parties, or bodily injury.

## Minors in possession of alcohol

### *Best Practice #18: Ban possession by minors in public and private locations.*

Prohibit possession by minors (unless incidental to employment) in public and private locations, with a possible exception in private residences when a parent or spouse is present.

### *Best Practice #19: Use “Cops in Shops” programs sparingly.*

Use “Cops in Shops” programs only for limited targeting of retail outlets popular with youth purchasers and to establish a working relationship with retailers; use as a first step toward implementing a comprehensive prevention strategy that includes a compliance check program.

### *Best Practice #20: Implement and enforce zero-tolerance laws.*

Prohibit minors with any measurable blood alcohol level from driving a motor vehicle; authorize immediate seizure of the young offender’s drivers license at the scene of arrest as part of an administrative license revocation procedure.

*Best Practice #21: Ban false identification.*

Prohibit the production, distribution, possession, and use of false identification. Increase the use of identification that can be scanned using a magnetic reader, and encourage or require scanning by merchants.

*Best Practice #22: Apply appropriate penalties to minors in possession.*

Impose administrative license revocation and other administrative and civil penalties where applicable, for violations of zero-tolerance laws. Establish streamlined criminal procedures, and experiment with nontraditional forms of punishment. In more serious cases, impose criminal penalties applicable to the crimes committed as a result of youth possession and purchase. Resist proposals to increase the severity of criminal penalties for youth possession or purchase not associated with other crimes.

## Implementation

Efforts to successfully implement regulatory strategies to reduce underage drinking face formidable barriers. Many States and communities, however, have achieved significant victories that have been measured in lives saved and tragedies averted.

Some key principles can help to maximize the effectiveness of implementation efforts.

*Implementation Principle #1: Set policy and enforcement priorities.*

One key to implementation success is setting appropriate priorities. Each jurisdiction should focus on those strategies that they can implement and that are most likely to have the greatest payoffs. While priorities must be based on local circumstances, the following enforcement priorities are supported by research and practice experience:

- Carry out routine, ongoing compliance checks.
- Prevent and intervene in teen drinking parties in both public and private settings.

- Penalize adult suppliers of alcohol at teen parties.
- Enforce zero-tolerance laws.
- Restrict commercial licenses to reduce youth access.
- Reduce use of false identification through use of tamper-proof and electronically readable identification and through prosecuting the manufacturers of false identification.
- Implement shoulder-tap programs to reduce purchase of alcohol for minors by adult strangers.

*Implementation Principle #2: Clarify the roles of State and local governments.*

Both State and local governments have key roles to play in the establishment and enforcement of regulations designed to reduce underage drinking. In order to maximize effectiveness, each level of government should adopt concurrent State and local authority to establish and enforce youth access regulations and avoid the State preemption doctrine. They should also promote partnerships between State and local agencies responsible for implementing and enforcing the regulations.

*Implementation Principle #3: Foster youth participation and activism.*

Citizen activism is central to the implementation of regulations. In particular, the participation of youth is key. States and communities should create opportunities for youth involvement and leadership in developing, implementing, and enforcing youth access regulations—to include working with schools, parents, alcohol policy coalitions, government agencies, and other community institutions and members.

## Regulatory Strategies: Part of a Comprehensive Goal

If States and communities work toward incorporating these best practices into their regulatory structures and processes, they can expect progress in reducing underage drinking and related problems.

Youth alcohol access regulations comprise only one aspect of a comprehensive community prevention strategy. Their potential for reducing youth alcohol problems will be greatly enhanced in community environments that deglamorize alcohol use, provide alcohol-free activities, send clear messages regarding the risks associated with alcohol, offer easy access to recovery services for all ages, and include reasonable regulations that target alcohol availability generally. Alcohol taxation is a particularly important complementary strategy.

The regulatory strategies outlined in this guide cannot be viewed in isolation. Their success and continuation can be assured only by building a foundation of community participation and activism and developing complementary policies and programs designed to shift community norms and expectations. This is a worthy goal that builds community collaboration and provides participants with a sense of accomplishment in both process and outcomes. The stakes are enormous: the safety and health of our young people—the heart of our country’s future.



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# Introduction

## The Impact of Minimum Age Drinking Laws

Raising the minimum age for purchasing alcohol has produced a significant achievement in public health and adolescent safety. The sharp decline in youth alcohol-related traffic crash deaths has been the most obvious result of the uniform minimum purchase age. Between 1982 and 1996, the number of young drivers involved in fatal crashes declined by 64 percent—from 3,099 in 1982 to 1,109 in 1997 (National Highway Traffic Safety Administration [NHTSA], 1998). This reduction is attributable primarily to the decline in the level of alcohol use among young drivers: in 1982, 31 percent of young drivers involved in fatal crashes had blood alcohol levels (BALs) over 0.10; in 1997, the rate dropped to 14 percent, a decline substantially sharper than that experienced by any other age group.

Although other factors may have contributed to the reduction in crashes, increases in the legislation of minimum age drinking laws, which prohibit sales to and possession of alcohol by individuals under 21 years of age, had the most significant impact. Between 1970 and 1975, 29 States reduced their minimum drinking age from 21 to 18, 19, or 20. States dramatically reversed this trend beginning in 1976, when public health and safety groups raised concerns about increased traffic crashes among young drivers. By 1988, all States had instituted a minimum drinking age of 21. A Federal statute in 1984 accelerated this reversal. Enacted after a major campaign by citizen action groups and public health organizations, the statute threatened States with loss of highway funds if they did not raise their minimum drinking ages.

An abundance of research studies have found that raising the minimum drinking age lowers traffic crash rates among young people. (See U.S. Government Accounting Office [GAO], 1987; Wagenaar, 1993; Wagenaar & Toomey, 1998.) NHTSA concluded after its review of the literature that the change in State laws resulted in a 13-percent decline in youth fatalities, saving approxi-

mately 16,500 young lives between 1975 and 1996 (NHTSA, 1998). Research also shows that there has been no increase in crash rates for those over age 21, refuting the conjecture that enforcing the laws would result in increased drinking and risk taking by those who reach the legal age (O'Malley & Wagenaar, 1991).

Minimum age drinking laws have positive public health benefits beyond reducing traffic crash fatality rates. O'Malley and Wagenaar (1991) conclude that establishing a higher minimum drinking age results in lower youth drinking rates, including those for young teenagers and young adults in their early twenties. As alcohol becomes less available to older adolescents (when the legal age is raised from 18 to 21), younger cohort drinking rates decline. Jones, Pieper, and Robertson (1992) found a 3.9-percent decline in fatality rates for unintentional injuries other than traffic crashes associated with the higher drinking age; Parker and Rebhun (1995) concluded that the higher drinking age results in lower rates of youth homicide; and Wagenaar (1993) notes that delaying regular drinking in adolescence may reduce rates of alcohol addiction and other long-term alcohol and other drug problems in adulthood.

What is remarkable about these findings is that such dramatic reductions have occurred even though minimum age drinking laws have been poorly enforced. Sales to and consumption by minors are routine in the United States despite the legal prohibition. Young people consume alcohol frequently, and many are heavy drinkers. According to the Monitoring the Future study (Johnston, O'Malley, & Bachman, 1998), for example, 74.8 percent of high school seniors have used alcohol at least once in the last year, and 31.3 percent report having consumed five drinks or more in a row at least once in the previous 2 weeks. Although there was a steady reduction in heavy drinking among high school seniors during the 1980's and early 1990's (reaching a low of 27.5 percent in 1993), rates are steadily increasing, as are rates of alcohol-related traffic fatalities among youth. Young people report having no difficulty in obtaining alcohol from either commercial or noncommercial sources (Biko Associates, 1998; Wagenaar et al., 1993), and drinking violations by minors are seldom prosecuted (Inspector General, 1991; Wagenaar & Wolfson, 1994).

Since the effectiveness of minimum age drinking laws lies in reducing alcohol availability to minors, a significant public health benefit can be expected if steps are taken to effectively enforce the prohibition. These benefits are not limited to lower traffic fatality rates. Youth alcohol consumption is associated with violence (particularly sexual violence), vandalism, unintentional injuries, poor school and work performance, and interpersonal and family problems. These alcohol-related problems should also decline with reduced youth alcohol availability.

All States have enacted legal provisions designed to restrict minors' access to alcohol, and numerous communities throughout the country have built on the States' laws and regulations, developing local programs and ordinances. Some States and local governments have prioritized the issue of youth access, developing innovative programs and devoting considerable resources to work with retailers and to increase enforcement efforts.

This guide builds on the inference that reducing young people's ability to obtain alcohol will reduce youth alcohol consumption and related problems. It describes the various regulatory measures that can be taken to meet this goal and presents a set of "best practices" recommendations for establishing a comprehensive regulatory structure. Recommendations are based on a legal analysis of the regulatory options and a review of available research on their effectiveness.

As noted in the Overview, this guide divides the regulations into three categories:

1. Chapter 1 describes restrictions on **commercial availability**;
2. Chapter 2 describes restrictions on **social/public availability**; and
3. Chapter 3 describes restrictions on **youth possession**.

Chapter 4 addresses implementation issues: enforcement priorities, the roles of State and local govern-



ments, and the importance of youth involvement in prevention efforts. It concludes by examining the role of youth access regulatory strategies in a comprehensive community prevention program.

It is important to note here that restrictions on availability of alcohol that are *not* aimed at youth may also be successful in reducing youth access. For example, several studies have found a close link between the density of alcohol outlets and the incidence of violence, including youth violence (Alaniz, Cartmill, & Parker, 1998; Parker & Rebhun, 1995). Alcohol-

related problem rates are also associated with alcohol prices (lower prices are associated with more problems), the hours and days of the week that alcohol sales are permitted (more liberal hours and days of sale are associated with an increase in problems), and liquor-by-the-drink regulations (permitting liquor by the drink is associated with increased problems). (See Edwards et al., 1994; Wagenaar & Toomey, 1998.) This paper will focus primarily on those regulations dealing with reducing minors' access to alcohol, though these other alcohol regulations should also be kept in mind as potential tools.



# 1

## Commercial Availability

Commercial availability is shaped by State and local regulations, which determine the number, location, types, and serving and selling practices of alcohol retailers. Great variation is evident in how States regulate commercial availability. Some States are very restrictive and may stipulate State ownership of off-sale outlets,<sup>1</sup> limited number and types of outlets, and local prohibition (in “local-option States”),<sup>2</sup> while other States have only limited controls.

All 50 States prohibit sales to those under age 21, although definitions of “sales” and possible exceptions differ among jurisdictions. The overall structure of alcohol availability in a particular locale will influence the effectiveness of the prohibition. For example, young people have reported that some outlets, notably convenience stores, are more likely than others to sell to minors (Biko Associates, 1998; Forster et al., 1994; Wagenaar et al., 1993). In at least one compliance check report, geographic areas with a high density of retailers and low per capita income have lower rates of compliance (Preusser & Williams, 1992) with underage purchase laws.

Thus, States and localities need to address the following five sets of commercial sales regulations:

1. Strictly prohibit sales to minors, providing few if any exceptions;
2. Limit the types and locations of commercial outlets that are likely sites for youth purchases;
3. Mandate serving and selling practices that reduce the likelihood of illegal sales to minors;

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<sup>1</sup> On-sale (also known as “on-premise”) establishments are those that serve alcoholic beverages for on-premise consumption (e.g., bars, restaurants, etc.). Off-sale (offpremise) establishments are retail outlets such as convenience or package stores.

<sup>2</sup> “Local option” States permit sub-State entities such as counties and municipalities to set alcohol policies locally.

4. Conduct comprehensive compliance check enforcement programs; and
5. Impose appropriate administrative, criminal, and civil penalties for violations.

## Strict Prohibitions of Sales or Gifts to Minors

Although all States prohibit alcohol sales to minors, some States permit exceptions. For example, in several States, minors can legally obtain alcohol from a commercial vendor if they are accompanied by a parent or guardian, or they can purchase and deliver alcohol to parents if they have a written authorization (Inspector General, 1991). These exceptions further complicate the role and duty of the commercial server in determining who may legally purchase alcohol. If an exception is desired allowing parents or spouses to provide alcohol to minors, it should at least be limited to private residences (see chapter 2). The best practice is to prohibit *all* commercial transactions (including sales and gifts) to those under age 21, as is the practice in most States. As a matter of fairness, commercial vendors should have an affirmative defense that they reasonably or in good faith relied on apparently valid, yet false, identification.

**In Illinois, for example, retail outlets (other than hotels) are prohibited within 100 feet of a school, and renewals for licenses in this zone will be denied if a school has been built next to a preexisting retailer.**

**California uses a 600-foot buffer zone around schools, playgrounds, and youth facilities, exercised at the discretion of the State Alcoholic Control (ABC) Department. The buffer zone does not apply to preexisting alcohol outlets (California Business & Professional Code §§ 23789). School protests may be critical if a community wants the ABC Department to exercise its discretion.**

### BEST PRACTICE 1

#### Ban commercial sales and gifts to minors

Prohibit all commercial sales, gifts, or other furnishing of alcohol to minors without exception, and provide vendors an affirmative defense regarding apparently valid, but false, identification.

## Licensing Restrictions

### Restricting the location of retail outlets

Many States and local governments create geographic buffer zones between alcohol outlets and schools, playgrounds, other youth facilities, and residential neighborhoods. Distance requirements vary widely—they may apply to only certain types of outlets, and the restrictions may be discretionary by either the State or local licensing body and applicable only if the school administration files a protest.

Most States give local jurisdictions discretion to create buffer zones using local land use and zoning ordinances, a strategy that many cities are now using (League of California Cities, 1998; Wittman, 1994).

Youth buffer zones create a barrier between young people and alcohol and have both practical and symbolic benefits. By reducing the number of alcohol outlets that are readily accessible, they make it more difficult for young people to purchase alcohol (cf. Alaniz et al., 1998). In many communities, buffer zones will also reduce the number of convenience stores in residential areas. This may be particularly important near schools, limiting the possibility of student consumption during and after school (for discussion, see Mosher, 1998). They also send a community message that alcohol and

young people are not a good mix. To be effective, buffer zones require a large enough geographic area (Wittman [1998a] recommends 1,000 feet) and permit only limited exceptions.

### Restricting special licenses for youth- or family-oriented community events

States and/or local governments typically issue special, temporary licenses for alcohol sales at special events such as music concerts, community fairs and celebrations, and sporting events. Some venues, such as sporting arenas or concert halls, may receive a special events license that permits ongoing sales on the premises and is not limited to a specific event. Criteria for special events licenses vary, although in most jurisdictions they are readily available at low cost with few restrictions. Licensees may be nonprofit organizations that use alcohol sales as a fundraising strategy. In some cases, the alcohol sales are linked to an alcohol company's sponsorship of the event. In exchange for funding, event organizers agree to sell the company's

**Hispanos Unidos, an organization in Redwood City, California, has organized Cinco de Mayo celebrations since 1988. After lengthy internal discussion, the organization decided to make the celebration alcohol free, resulting in cancellation of the event in 1991 due to lack of funds. Members who disagreed with this policy accepted alcohol company sponsorship and held a rival celebration. However, the following year, Hispanos Unidos succeeded in mounting an alcohol-free celebration, which experienced fewer alcohol-related problems and greater community and business participation than the rival celebration supported by alcohol sales and alcohol company sponsorship (De Lucio et al., 1997). Many other communities have taken similar actions to remove alcohol sponsorship and sales from community events (Institute for the Study of Social Change, 1994a, 1994b; Marin Institute, 1992). For example, alcohol-free community celebrations of New Year's Eve ("First Night") have become popular in communities across the country.**

## BEST PRACTICE 2

### Restrict the location of alcohol outlets

Create buffer zones that extend at least 1,000 feet to separate alcohol outlets from schools, youth facilities, and residential neighborhoods; that can be applied retroactively; and that permit only limited exceptions based on local circumstances.

products and publicize the company's sponsorship. (See chapter 2 for discussion of a parallel form of alcohol availability involving private events such as weddings and banquets, where alcohol is not sold to the public.)

Alcohol sales at community events create a high risk of underage drinking and related problems, including assaults, drinking and driving, and vandalism (Gliksman, Douglas, Rylett, & Narbonne-Fortin, 1995; Pratt, Rothstein, Meath, & Toomey, 1997). States and local jurisdictions have taken various steps to reduce these risks, including:

- Restricting the issuance of licenses at youth-oriented and family events;
- Prohibiting alcohol sales at specific venues popular with young people;
- Designating alcohol-free days or periods within longer events such as community fairs;
- Establishing restricted drinking sections at special events where young people are not permitted to enter;
- Prohibiting participants from bringing alcohol into the event; and
- Requiring responsible beverage service management policies and training (Institute for the Study of Social

Change, 1994a, 1994b; Pratt et al., 1997). Local officials report that such restrictions reduce youth alcohol problems associated with these events (De Lucio, Wilkes, & Alaniz, 1997; Gliksman et al., 1995).

Strong market and political forces often oppose such regulations. A decision to ban alcohol sales may threaten an alcohol company's sponsorship of the event. Many politically connected nonprofit organizations are dependent on alcohol sales at special events, and alcohol sales are viewed by many special event planners as an integral, lucrative component. These economic and political forces may deter governmental action. For example, the city council in Greenwood, Mississippi, concerned that a ban would hurt the local economy, rejected a citizen drive to ban beer sales at festivals and events held on city property (*Alcoholic Beverage Control*, 1992). Despite this type of resistance, many communities are successfully imposing new restrictions on such sales.

States and communities should review and reform their licensing practices for special events. Regulations should strictly limit alcohol sales and alcohol company sponsorships at youth- and family-oriented events, reviewing each on a case-by-case basis. If a special license is issued, alcohol should be incidental to the purpose of the event, and strict policies should ensure that sales to young people do not occur. These policies should include requirements that the organizer create a designated, cordoned-off area for alcohol sales and consumption where young people are not allowed, and provide adequate training to staff and security. Nonprofit organizations should be permitted a limited number of special licenses in a year (Mosher, 1991). For sample model ordinances, see LaFond, Klautt, Toomey, and Gehan, 1998, and Wittman, 1998a.

Some communities use methods other than designating a cordoned-off area to prevent sales to minors at community events. These include issuing wristbands to people over 21 to indicate that they can buy alcohol. Such strategies are easily subverted. Restricting access to the area where alcohol is sold is the most effective

### BEST PRACTICE 3

#### **Restrict alcohol sales at community events.**

Strictly limit alcohol sales and alcohol industry sponsorships at youth- and family-oriented community events; impose strict conditions designed to reduce youth access at special events where alcohol is sold.

means of reducing access to alcohol by minors at community events.

## Regulations for Serving and Selling Practices

### Age of server and seller

States impose varying limits on the minimum age of employees working in commercial alcohol outlets, with many States distinguishing between those who serve alcohol (e.g., bartenders and waitresses in on-premise establishments) and those who sell it (e.g., clerks in off-premise establishments). Virginia and North Carolina impose no age limit for offpremise employees but set a minimum age of 18 (Virginia) and 21 (North Carolina) for alcohol servers.

Minimum ages vary from 16 to 21 years of age in other States, with the large majority designating 18 as the minimum age for either sales or service. Some States, including California, allow 18-year-olds to sell alcohol, provided they are continuously supervised by someone over age 21. Other States distinguish between bartenders and grocery store employees (National Alcohol Beverage Control Association [NABCA], 1998). In most States, the age limits do not apply to employees who are not engaged in selling or serving alcohol.

Research confirms the observations of many people involved in enforcing laws prohibiting sales to minors and implementing responsible beverage service programs: underage sellers and servers have a greater difficulty refusing sales to underage buyers because they are more likely to misjudge the customer's age, make exceptions for friends and acquaintances, and respond to peer pressure (Forster et al., 1994; Inspector General, 1991; Mosher, 1991; Wagenaar et al., 1993; Wolfson, Wagenaar, & Hornseth, 1995).

Unfortunately, economic interests, particularly those of the restaurant industry, are lobbying for legislation to ease server and seller age limits. New Mexico, for example, lowered its age limit from 21 to 19 (except for bartenders) in March 1999 as a means to create jobs for young people (*Alcoholic Beverage Control*, 1999). This lobbying effort is occurring despite a recent national survey that found that nearly 80 percent of respondents favor laws that require all servers and sellers to be at least 21 years old (Harwood, Wagenaar, & Zander, 1998).

### Restrictions on minors' access to public drinking establishments

State and local regulations vary widely in the extent to which they permit minors to enter on-sale retail alcohol outlets (Inspector General, 1991). Most States restrict minors' access to bars and nightclubs and allow them to enter restaurants, and some States prohibit minors from entering any licensed establishment. If the distinction between a bar and a restaurant is blurred, problems can result. California law, for example, permits minors to enter licensed restaurants, but restaurants are required only to have the *capacity* to serve meals, and many maintain bars on the premises and function more as nightclubs, particularly late at night (California Business & Professions Code §§ 23787, 25665).

Allowing minors into drinking establishments such as bars and nightclubs is, in the words of one enforcement official, "a regulator's nightmare" (Inspector General, 1991). It creates numerous difficulties for servers, who

#### BEST PRACTICE 4

### Restrict the age of alcohol servers and sellers.

Require that all retail alcohol outlet employees who are engaged in the sale or service of alcohol be at least 21 years of age.

must conduct repeated identification checks and continuously track who is actually drinking the beverages being served. If minors are barred from the establishment, age identification checks can occur primarily at the door, conducted by a trained employee using proper tools and lighting, thus greatly reducing the ability of minors to obtain alcohol on the premises. The restaurant exception should be applied only to bona fide restaurants that provide table service, maintain a high ratio of food to alcohol sales, and do not have a separate bar or drinking section accessible to minors.

### Easy detection of false identification

Many minors possess false identification that they may use in attempts to purchase alcoholic beverages. Research suggests that, in most instances, young people do not need to use false identification because so many retailers in a community routinely sell to them without asking for proof of age (Grube, 1997). False identification still contributes to youth access, however, and State and local governments and retailers can take two relatively simple steps to reduce its use. (See chapter 3 for complementary recommendations regarding sanctions against minors and providers of false identification.)

First, several States have redesigned State drivers licenses and identification cards to make them tamper-proof and easy to examine. California and other States, for example, issue minors' licenses and cards with profile photographs and use plastic materials that are difficult to alter (Inspector General, 1991). Second, States



can require that licensed outlets install and use State drivers license scanners. The scanner reads the magnetic strip on the back of the license so that the user can determine the validity of the birth date and other identifying information printed on the front. Pennsylvania is the first State to introduce scanners at retail outlets. Stores in the State have now installed them, and the State is making them available to alcohol retailers for \$900 (*The Observer*, 1996). Seven-Eleven stores in California have installed similar devices (Otten, 1998). This new technology, combined with changes in license and identification card design, provides valuable tools for retailers to reduce the risk of accepting invalid identification from minors attempting to purchase alcohol.

### Home delivery and Internet sales

Only one study has been conducted to date on youth access through home delivery (Fletcher et al. [in press]). This practice (legal in about half the States) allows off-sale retailers to deliver alcohol to the purchaser at a private residence. The researchers surveyed young people and retailers in 15 small and midsize communities in Minnesota and Wisconsin. Their findings are startling: 10 percent of 12th graders and 7.3 percent of 18- to 20-year-olds reported purchasing alcohol delivered by a retailer to a home or individual in the past year. The authors speculate that high school seniors are more likely to use delivery services because their older counterparts can easily access alcohol by other means. Those using this method are also more likely to engage in heavy, high-risk drinking, and retailers who engage in home delivery are more likely to sell beer kegs.

As these findings suggest, home deliveries open an additional avenue for youth access to alcohol. Delivery personnel are not monitored by management, surveillance cameras, or law enforcement, so they may be less likely to inspect identification; and young people may also feel less risk of exposure or penalties for these purchases. If asked for identification, they can simply say the person ordering the alcohol is not present. Home

#### BEST PRACTICE 5

### Restrict minors' access to bars and nightclubs.

Prohibit minors from entering bars and nightclubs, which should be clearly distinguished from restaurants.

delivery may also be one means to supply teen parties in private residences, which often involve large quantities of alcohol, including kegs. For these reasons, at least one community coalition has sought strict control of home deliveries of alcohol (Ehrhardt, 1995).

Internet and mail-order sales raise similar concerns, and there have been numerous reports of shippers leaving alcohol addressed to children at private residences (e.g., Armstrong, 1995). Controls are even less likely in these cases, since the deliveries are being made by firms whose normal business is not alcohol sales, thereby making them less familiar with legal requirements regarding underage sales and proper identification. No research has been published on the prevalence of young people ordering alcohol through the Internet or by mail order, however, and the risk appears smaller than that for home delivery for at least three reasons: (1) this method of purchase takes a long time (at least a week in most cases); (2) credit cards are usually required; and (3) the products being offered are more likely to be expensive.

Internet and mail-order sales have stimulated a contentious political battle, however, not only because they might increase access to minors but also because State tax agencies are concerned about lost tax revenues, and alcohol wholesalers are concerned that their markets may be undermined. The wholesalers have joined with several organizations including public health groups to form Americans for Responsible Alcohol Access (ARAA). This new coalition seeks to prohibit Internet/mail-order alcohol sales, arguing that they increase alcohol access to minors (ARAA, 1999;



*Kane's Beverage Week*, 1997). Small wineries, which oppose regulation, argue that restrictions violate their constitutional rights under the interstate commerce clause. They also contend that wholesalers are seeking controls not because of risks of selling to minors but because they want to maintain a monopoly on all alcohol distribution in their territories (*NBC News Online*, 1997). Congress and many State legislatures are now grappling with these conflicting economic, interstate commerce, and health agendas.

If States permit either home delivery or Internet/mail-order sales, they can reduce the risk of youth access by establishing strict procedures similar to those used in beer keg sales (see chapter 2). As a condition of sale, the deliverer should be required to fill out a form that includes the amount of alcohol being purchased, the purchaser's drivers license or State identification card number, and an affidavit signed by the purchaser confirming that he or she is at least age 21 and understands the civil and criminal penalties for furnishing alcohol to minors. The deliverer should be required to maintain these files for a set period of time and produce them to enforcement agencies on demand; failure to maintain records should result in administrative penalties (Pratt et al., 1997; for sample ordinance, see LaFond et al., 1998). The purchaser can similarly be held liable both criminally and civilly if he or she furnishes the alcohol to minors.

### Mandated responsible beverage service programs

Responsible beverage service programs target both on-sale and off-sale alcohol retailers and are designed to reduce sales to minors and intoxicated adults. They include three critical components:

1. Policy development,
2. Manager training, and
3. Server/seller training (Mosher, 1991).

Evaluations of their effectiveness (which have focused primarily on preventing intoxication) are mixed but

#### BEST PRACTICE 6

##### Install and use drivers license scanners.

Create easy-to-inspect and difficult-to-alter State drivers licenses and identification cards, and require the installation and use of drivers license scanners by all alcohol retailers over a phase-in period.

promising (Saltz & Stanghetta, 1997; Toomey et al., 1998; Wagenaar & Toomey, 1998). In general, programs are more likely to be successful when they include a policy development component, focus on skills development and active learning, and are implemented communitywide in conjunction with compliance checks and a media advocacy campaign (Grube, 1997; Saltz & Stanghetta, 1997; Toomey et al., 1998). Compliance checks may be particularly important to ensure success of the underage sales component (Grube, 1997). Evaluations of merchant education programs targeting tobacco sales to minors have reached similar conclusions (Chaloupka, Levy, & Grossman, 1998). Two studies suggest that mandated responsible beverage service programs that require all establishments in a jurisdiction to participate are more effective than programs implemented on a voluntary basis (Dresser, 1998; Wagenaar & Holder, 1991). Mandated programs may not be politically or practically feasible, however, until after a community or State has developed and implemented voluntary programs.

Responsible beverage service programs have become increasingly popular during the 1990's. At least 15 States, as well as numerous local jurisdictions, have

<sup>3</sup> In dram shop liability, establishments that serve alcohol can be held legally responsible for harm caused by their patrons who are served alcohol illegally.

instituted mandated programs or encouraged their adoption by offering strong incentives to retailers (Pratt et al., 1997). In Texas, for example, retailers can avoid most forms of dram shop liability<sup>3</sup> if they participate in a responsible beverage service program (Mosher, 1999b). Many communities have instituted community-wide programs, some of which have become mandatory. Many retailers have developed their own programs, sometimes in conjunction with a community program.

Unfortunately, research findings have not played a major role in this implementation process. Most programs focus primarily on server training and ignore policy development and manager training. Often they lack a community component. In some cases they are instituted by industry groups as an alternative to, instead of in conjunction with, compliance checks and other policy interventions (Mosher, 1991; Toomey et al., 1998). In such cases, responsible beverage service programs are at best doing no harm.

Responsible beverage service programs focus primarily on sales to intoxicated persons but include a component on preventing sales to minors. A comprehensive curriculum will ensure adoption and implementation of the following policies (on a voluntary basis, if not mandated by the local or State jurisdiction):

- Minimum age of 21 for servers and sellers;
- Staff notification and acknowledgment of legal responsibility and consequences for violation;
- Procedures to ensure that all persons seeking entry or service will be subject to an identification check (including denying entry to bar areas);
- Identification checks for anyone who appears to be age 30 or younger (higher ages in some circumstances);
- Guidelines regarding acceptable identification cards and procedures for establishing validity; and
- Internal compliance checks conducted by management to ensure compliance.

## BEST PRACTICE 7

### **Regulate home delivery and Internet/mail-order sales.**

Prohibit home delivery of alcohol and either prohibit or strictly regulate Internet/mail-order alcohol sales.

The manager and server training components focus on implementation of these policies, using active learning techniques. (For discussion, see Mosher, 1991; Prevention Research Center, 1996). The training should emphasize management policies that are likely to lead to more responsible practices.

## Compliance Checks (Decoy or Sting Programs)

Routine, comprehensive compliance checks are the key strategy for deterring commercial alcohol sales to minors. They involve the use of underage buyers by law enforcement agencies as deputies to test retailers' compliance with laws regarding the sale of alcohol to minors. A comprehensive program consists of the following components:

- Notification to retailers, including the program's goals, procedures, and timeframes;
- Opportunity for retailers to participate in responsible sales and service programs prior to the start of the compliance check;
- Community outreach and media advocacy to publicize the program's design and purpose;
- Random selection of outlets to be included in the initial wave of the program (100-percent coverage if feasible);
- Followup communication informing each retailer of the results; and

- Repeated notifications to licensees of the ongoing compliance check program and repeated waves of checks over set periods of time (two or more times per year), which may include targeted checks of retailers identified as violators in previous waves (Fitch, Toomey, Gehan, & Wagenaar, 1998; Grube, 1997).

Properly administered compliance checks sharply reduce illegal sales to minors. Grube (1997) reports the results of a comprehensive program implemented in three experimental communities as part of the Community Trials Project administered by the Prevention Research Center. Outlets in the experimental sites were about half as likely to sell alcohol on a posttest purchase survey as outlets in the comparison sites, dropping from a range of 33 percent to 72 percent to a range of 4 percent to 33 percent. Preusser, Williams, and Weinstein (1994) reported that a compli-

**Compliance checks are becoming increasingly common nationwide. In California, for example, the Alcohol Beverage Control (ABC) Department has developed an ambitious State/ local partnership program that addresses all of the pitfalls listed above. The Department, working with local law enforcement agencies, conducts onsite visits with retailers, offers licensee education classes, and funds local agencies to conduct compliance checks and other enforcement actions. Its guidelines for conducting compliance checks stress the need for media involvement, community support, licensee notification, and fair procedures that protect against charges of entrapment. The Department reports that cities participating in the program have significantly decreased the number of licensees selling to minors during the compliance checks, from more than 30 percent to less than 10 percent (Stroh, 1998). Fitch et al. (1998) have developed a law enforcement manual that serves as a basic resource for local compliance check programs in that State. Many other States have statewide programs, and local communities are also implementing them with or without State support.**

## BEST PRACTICE 8

### **Mandate responsible beverage service programs.**

Initiate and, over time, mandate communitywide responsible beverage service programs designed in conjunction with compliance checks and other policy interventions.

ance check program in Denver, Colorado, resulted in reduced sales to underage police cadets from 58 percent to 26 percent over a 10-month period, after three waves of enforcement. Fitch et al. (1998) report similar or greater declines in two local programs. Lewis et al. (1996) offer additional evidence that compliance checks will reduce youth sales, even when implemented by a community coalition without direct law enforcement involvement. Florida has maintained a compliance rate of 88 percent to 90 percent as a result of 20 years of consistent compliance investigation.

Compliance checks, of course, address only commercial availability. As this avenue for obtaining alcohol is curtailed, young people will likely find alternative avenues through social sources (Wagenaar et al., 1996; see chapter 2). Research studies have not assessed the extent to which this substitution may occur, although overall youth consumption will probably decrease as commercial availability diminishes. Grube's findings (1997, 1998) suggest that compliance check programs will reduce youth consumption, at least when they are combined with other community interventions. Forster et al. (1998) report substantially lower increases in smoking among teenagers in communities adopting tobacco compliance check programs compared to those in control communities.

To be effective, the programs must avoid several common weaknesses. First, they need to be conducted routinely. One-time compliance checks will have little or

no long-term effect. Second, they must be community-wide and build community support, without which industry opposition will likely result in the program being terminated or curtailed. Third, they need to be well-designed to ensure that the procedures are fair and not subject to either political or legal attack (for discussion, see Pratt et al., 1997). Finally, ongoing funding sources need to be established. Compliance checks can be made self-supporting through special license fees and/or by recycling fines for violations.

A well-designed compliance check program gives retailers full notice of the impending program, offers assistance and training, uses decoys who are clearly underage, and avoids false identification or any other trick or subterfuge to encourage an illegal sale. Because compliance appears so easy, it is surprising that violation rates are so high. At the same time, communities find that a large percentage of establishments do comply, particularly after one warning. This undermines the arguments made by violators that the programs constitute unfair entrapment. It also supports reports from young people and law enforcement personnel that youth buyers know which retailers in the community are likely to sell to them and which retailers they need to avoid. The program's goal is to send a clear message to those who consistently ignore their legal responsibility: either follow the example of complying licensees or face stiff penalties, including the possible loss of your license.

## Penalties for Violating Commercial Availability Restrictions

Violation of commercial availability restrictions can lead to three types of penalties, which can be imposed separately or concurrently: *administrative*, *criminal*, and *civil liability*. Each has distinctive purposes, consequences, and roles in a comprehensive prevention program.

*Administrative penalties* target the retailer's State and/or local operating license. State and local govern-

### BEST PRACTICE 9

#### Carry out compliance check programs.

Implement comprehensive compliance check programs that are ongoing and communitywide; include a media advocacy component; and follow strict guidelines to ensure fairness.

ments issue alcohol retail licenses as a necessary condition to conduct business and, through the regulatory process, establish standards of conduct for selling alcohol.<sup>4</sup> The license establishes a privilege, not a right, and governments have the authority to suspend or withdraw the privilege or impose a fine on the business if the standards of conduct are violated.

*Criminal penalties*, in contrast, target the individual committing the violation rather than the license. Criminal law establishes moral judgments regarding individual behavior. Penalties, which may include fines, imprisonment, and/or probation, are assessed against the offender and may carry grave consequences for the individual's future. Because of the gravity of this process, the U.S. Constitution's Bill of Rights establishes the basic rights of an individual to a fair criminal procedure (for discussion, see Mosher, 1995).

*Civil* (or "dram shop") *liability* involves private lawsuits to recover monetary damages caused by the negligence of another and rests on a separate set of legal principles that does not involve direct government action. In a civil liability action, an alcohol retailer who furnishes alcohol to a minor can be sued in a private lawsuit and held responsible for the damage caused by

<sup>4</sup> Control States operate State stores as well as license private establishments. They can use employee disciplinary policies in the State stores to penalize poor management or server performance.

the minor while under the influence of the alcohol (Holder et al., 1993).

All States impose both criminal and administrative penalties for illegal sales of alcohol to minors, although the specific sanctions vary. In many States, local governments can establish separate administrative structures for licensing alcohol outlets, which may include administrative penalties (Pratt et al., 1997). Civil liability law, on the other hand, varies from State to State and cannot be imposed at the local level (Holder et al., 1993; Mosher, 1999b). Some States do not impose any civil liability on alcohol retailers, holding as a matter of law that the minor drinker is entirely responsible for any damage he or she causes. This is a minority position that contradicts basic concepts of negligence law applied to most other business enterprises. Most States recognize civil liability, but many have placed restrictions on its application. In California, for example, lawsuits are allowed only if the retailer sells or serves to an obviously intoxicated minor. (California Business & Profession Code § 25602.1). Other States that recognize the civil liability doctrine do not require evidence that the minor was intoxicated at the time of the sale (Mosher, 1999b). Some States have strict notice and statute of limitations requirements, place limits on the damages a plaintiff may recover, or restrict who has standing to bring a lawsuit (Mosher, 1999b).

From a public health perspective, the purpose of sanctions is to reduce or deter future violations, thereby improving the community's health and safety. Research on deterrence shows that, in order to be effective, there must be a credible threat that a significant negative consequence will occur. The threat must be perceived to be swift and certain, and, for the effect to be maintained, the threat must be perceived to continue over time. Increasing penalties will have little or no effect when the other elements (swiftness, certainty, and continuity) are not present (Ross, 1992).

Using these criteria, administrative penalties are clearly the most effective mechanism for deterring illegal alcohol sales to minors. They create a credible, severe

threat—significant reduction in the profitability of the business and, in serious cases, the loss of the business. Licensees will perceive the penalty as relatively certain if it is tied to a well-publicized compliance check program and it can be imposed relatively swiftly.

Administrative actions are much less complex than their criminal counterparts. They can be held before civil officers in administrative hearings, require a lower burden of proof, and occur in a more timely manner. They are also more certain. Criminal dockets are typically clogged, and long delays are common. District attorneys and judges may view alcohol sales violations as relatively minor compared to other crimes, resulting in early dismissals. Administrative penalties are therefore easier to impose and less expensive. They also can be made self-supporting by recycling fines collected to pay the costs of administration (Pratt et al., 1997; Preusser et al., 1994).

Administrative penalties have an important additional advantage over criminal sanctions. Because they target the license, they hold the licensee/owner primarily responsible for the violation. Management policies and manager/server training, which are the responsibility of the licensee, are crucial to maintaining a safe and responsible alcohol establishment (Mosher, 1991). Employee malfeasance can be addressed by the licensee through internal disciplinary action. Administrative sanctions, therefore, target the individuals who are in the best position to prevent future violations. Criminal law, on the other hand, holds the server/seller primarily responsible for the illegal sale, and the licensee may be absolved from any responsibility. They target individual malfeasance but do not focus on the business or environment that is creating the public health risk. In public health terms, administrative penalties promote environmental or systems change, the most effective prevention strategy (Holder, 1998).

To be effective, administrative penalties should impose real costs on the violator and increase in severity for repeat offenses (Inspector General, 1991). In California, for example, the first offense usually results



in a fine and recommendation that the licensee enroll in a responsible beverage service program; the second offense within 36 months will most likely lead to license suspension; and a third offense within 36 months may result in license revocation (California Business & Professions Codes §§ 25658; 25658.1).

While penalties should be significant, it is important that they not be *too* severe, especially for first offenses. Law enforcement officials are less likely to impose penalties if the punishment is perceived as too severe and out of proportion to the seriousness of the offense.

Civil liability and criminal sanctions complement administrative penalties. Once established by statute or court decision, civil liability does not require direct government action. Because of the expense and complexities of the process, civil liability cases are generally limited to more serious injury cases. They share two important advantages with administrative penalties: they target the licensee (who is held responsible for the action of his/her employees), and they focus at least indirectly on management policies (Holder et al., 1993). Research studies have found that imposing civil liability reduces alcohol-related traffic crash deaths,

**BEST PRACTICE 10****Impose appropriate penalties for commercial violations.**

Impose strict administrative penalties on retail licensees for violations of sales-to-minors laws, which increase with severity for repeated offenses. Complement administrative penalties in serious cases by permitting civil liability lawsuits against licensees based on common law negligence principles, and by imposing criminal sanctions.

probably because of these advantages and in spite of the lack of swift or certain punishment (Sloan, Reilly, & Schenzler, 1994; Wagenaar & Holder, 1991). Because of their relative severity and expense, criminal sanctions should also be reserved for more serious cases, particularly where the illegal sale resulted in serious injury or death.

# 2

## Social/Public Availability

Regulating commercial availability is an important step in reducing youth access to alcohol, closing a ready source for young people and sending a message that the community takes the minimum age drinking law seriously. However, it is only a first and relatively easy step in the process. Research shows that young people have no difficulty obtaining alcohol through social sources—parents and relatives, friends, and strangers who purchase as a favor or for a fee (“shoulder tapping”) (Preusser, Ferguson, Williams, & Farmer, 1997; Wagenaar et al., 1993, 1995). Wagenaar et al. (1996) found that persons over age 21 were the most common source of alcohol. Youth consumption occurs primarily outside commercial establishments and most frequently in private residences and in open areas such as parks or beaches (Mayer, Forster, Murray, & Wagenaar, 1998).

Addressing the noncommercial sources of alcohol and settings for youth drinking is clearly a high priority. It requires a multifaceted approach designed to shift community norms and cultural values. Interventions can include developing parent support networks and education groups, neighborhood watch programs, alternative alcohol-free community and youth events, and youth leadership programs. The focus here is specifically on regulatory strategies that will complement nonlegal approaches and serve as important vehicles for encouraging the shifting of norms and values.

### Noncommercial Sources of Alcohol (Social Availability)

#### Restrictions on furnishing alcohol to minors

All States restrict a minor’s ability to obtain alcohol through noncommercial sources, although most statutes provide some exceptions, particularly for parents, spouses, and guardians. Texas, for example, prohibits any person from furnishing alcohol to a minor unless he or she is an adult parent, guardian, or spouse and is visibly present when the minor possesses or consumes the alcohol

(Texas Alcoholic Beverage Code § 106.06). The parental/spouse exception may be limited to private residences or may extend to bars and restaurants. Many States, including California and Nevada have created an ambiguity by prohibiting any noncommercial furnishing of alcohol to a minor but allowing minors to possess alcohol in private residences or under the direction of an adult parent, spouse, or guardian (California Business & Professions Code §§ 25658, 25662; Nevada Revised Statutes § 202.020). Many States do not extend the prohibition to private residences under adult supervision (e.g., Utah Code Annotated §32A-12-203) (President's Commission on Model State Drug Laws, 1993). Other exceptions involve medicinal and religious uses of alcohol.

As these exceptions suggest, many States are reluctant to invade the privacy of residential dwellings and parent-child and marital relationships. This is in keeping with a fundamental cultural value, although the President's Commission (1993), recommends against any residential exception because it "sends mixed and confusing signals to parents and youths alike that underage drinking is tolerable under certain circumstances." An exception, if included, needs to be carefully crafted so that it does not undermine the community's ability to prevent teen drinking parties in private residences. If an adult parent, spouse, or guardian exception is included, it should require that the adult be present and supervising the minor child or spouse. The exception should not extend to other minors and should not limit the enforcement of teen party ordinances (see below).

### Keg registration

Wagenaar et al. (1993) confirm anecdotal reports that beer kegs are a popular source of alcohol at teen parties. They provide alcohol at the cheapest price and require only one purchase, usually arranged with a friend over age 21. The low cost and high volume contribute to heavy, problematic drinking. Research has shown that young people are particularly price sensitive and that raising prices will reduce heavy drinking (Chaloupka,

## BEST PRACTICE 11

### Restrict noncommercial furnishing of alcohol to minors.

Prohibit any person from furnishing alcohol to a minor with a possible exception of allowing adult parents, guardians, or spouses to serve alcohol to their children or spouse in their private residences.

Saffer, & Grossman, 1993; Laixuthai & Chaloupka, 1993). Kegs also complicate law enforcement efforts to trace the alcohol suppliers for teen parties. Partygoers may pay a door fee or use some other mechanism to cover the cost, which may create a profit for an enterprising host and leave law enforcement officers no way to trace the purchase to a particular individual.

Keg registration regulations reduce this form of non-commercial availability. They require retailers to attach a tag, sticker, or engraving with an identification number to the keg. At purchase, the retailer requires a refundable deposit and records the purchaser's name, address, telephone number, and drivers license or other identification information. The deposit is refunded when the keg is returned intact with the identification number. If law enforcement personnel confiscate a keg at a teen party, they can easily trace the purchaser and impose appropriate sanctions. Although there is no research that specifically assesses the impact of this intervention, reports from law enforcement agencies suggest that it substantially reduces young people's keg use (Institute for the Study of Social Change, 1994c).

At least nine States (California, Connecticut, Idaho, Maryland, Nebraska, Oregon, South Dakota, Vermont, and Washington), and numerous local jurisdictions including the District of Columbia, now have keg registration laws (Institute for the Study of Social Change, 1994c; University of Minnesota, 1999). Although these



laws have a similar structure, they differ in specific provisions. For example, the definition of keg volume varies from 4 gallons (Washington and Maryland) to 7 gallons (Idaho). Only Vermont requires the purchaser to leave a deposit (\$25) that is refundable when the keg is returned with the identification tag intact. The length of time retailers are required to keep keg purchase records ranges from 6 months to 2 years, and penalties and identification tag requirements vary widely.

To maximize their effectiveness, keg registration laws should apply to 4-gallon-or-larger containers, require retailers to keep records for at least 1 year, and impose a substantial fine for anyone who violates the law (merchants who sell kegs without proper registration, keg purchasers who provide alcohol to minors). They should also require a refundable deposit (Pratt et al., 1997 recommend a \$50 minimum) to deter purchasers from destroying the identification tags and abandoning the keg, and make tag removal more difficult (for discussion, see Institute for the Study of Social Change, 1994c; Pratt et al., 1997).

### “Shoulder-tap” enforcement programs

“Shoulder tapping” refers to the common practice used by minors to obtain alcohol from strangers near off-sale retail outlets. Minors will wait outside the premises (in the parking lot or on the sidewalk), approach adults who are about to enter, and request that the adult purchase alcohol for them. The young person may offer the adult a fee or a portion of the alcohol purchased in exchange for conducting the transaction. These offers attract some adults, including street alcoholics.

Shoulder-tap enforcement programs are similar to compliance check programs except that they target the non-commercial supplier. A young decoy approaches adults outside an alcohol outlet and requests that the adult purchase alcohol on the decoy’s behalf. The California ABC Department has established procedures for shoulder-tap enforcement programs (California ABC Department, n.d.). It targets the program to locales where problems have been reported and uses the same

## BEST PRACTICE 12

### Implement beer keg registration.

Enact beer keg registration laws that apply to beer containers of 4 gallons or larger; require a minimum \$50 deposit and technology that deters identification tag removal.

guidelines for the decoy’s actions as in compliance checks (e.g., no deception, false identification, or attempts to look older). The Department trains local law enforcement agencies, which normally add the program to other enforcement activities, and consults with local district attorneys and judges to ensure that the court system will process any complaints that are filed.

Local retailers can play an important role in shoulder-tap programs. First, most States make retailers responsible for activity in the immediate vicinity of their establishment. If retailers witness a shoulder-tapping incident or if shoulder tapping occurs repeatedly in close proximity but not in direct view, they have a responsibility to take steps to curtail the activity, including reporting it to law enforcement. They should refuse any sale when a reasonable person in their position would conclude that the adult is purchasing the alcohol on behalf of a minor. Responsible beverage service programs and public nuisance regulations should specifically include shoulder-tapping prevention as an alcohol retailer responsibility.

## Noncommercial Settings for Youth Consumption

### Teen party ordinances

Teen parties constitute one of the highest risk settings for youth alcohol problems (Mayer et al., 1998;

Schwartz & Little, 1997; Wagenaar et al., 1993).

Young people report their heaviest drinking at large parties with peers—almost all of whom are underage—in someone else’s residence. In some cases, the parties occur without parents’ knowledge when they are out of town. (Policies addressing teen parties that occur in outdoor settings are discussed below.)

Teen parties frequently lack adult supervision and can lead to serious health and safety problems, including drinking-driving, rape and other sexual assaults, other forms of violence, vandalism, and property damage. They also provide a venue for introducing young teens to a heavy drinking culture. In one study, older teens (ages 17–19) reported “breaking in” younger teens (ages 14–16) at teen parties by encouraging them to become very intoxicated (Wagenaar et al., 1993).

Communities report that many parents have a high tolerance for teen parties, allowing them to occur on their property often without any supervision (Wolfson et al., 1995). This tolerance apparently stems from three misconceptions or beliefs: (1) alcohol, particularly beer, is a relatively harmless drug compared to illegal drugs, and its consumption is part of the passage to adulthood; (2) permitting consumption in a residential setting is safer than having it occur in open areas, where there is a higher risk of problems; and (3) teen drinking is inevitable, and it is safer if it occurs in a controlled, residential setting.

This community tolerance is compounded by the legal obstacles to law enforcement agencies in deterring teen parties. Many States do not prohibit youth possession in private residences (see chapter 3), or permit parents to supply alcohol to their minor children. Police detecting a teen party may not have legal grounds to enter the premises, be unable to confiscate the alcohol, trace its original purchaser, or hold the adult homeowner or renter responsible for allowing the party on the premises.

Communities are experimenting with teen party ordinances to address these problems. For example, the

## BEST PRACTICE 13

### Implement “shoulder-tap” enforcement programs.

Implement shoulder-tap enforcement programs, targeting problematic locales. Instruct retailers regarding their role in preventing shoulder tapping; if the practice continues repeatedly outside a retail establishment and the retailer refuses to take action despite instruction and warning, utilize public nuisance regulations to impose sanctions.

cities of Petaluma, Vallejo, and Santa Rosa, California, have enacted ordinances that

- Prohibit any gathering in a private residence of five or more persons under age 21, at least one of whom possesses alcohol;
- Hold the person responsible for the event (homeowner, organizer, or other person) liable to the city for the cost of police services if a police officer at the scene determines that the gathering is a threat to the public peace, health, safety, or general welfare of the community; and
- Impose a fine on the homeowner or renter who permits such a gathering to occur at his or her residence.

This approach could be augmented by specifying that repeated teen parties at a residence constitute a public nuisance, allowing sanctions to be imposed on this basis.

Some communities, including Minneapolis, Minnesota, have “noisy assembly” ordinances, which can complement teen party ordinances (LaFond et al., 1998). A noisy assembly ordinance prohibits gatherings that disturb the peace, quiet, or repose of neighbors or others

during late night hours (e.g., 10:00 p.m. to 7:00 a.m.). This provides law enforcement an additional legal basis for investigating teen parties in private residences.

## Motel and hotel regulations

Motels and hotels are another potential venue for teen parties, which are often held as part of proms and graduation ceremonies. Adults, including parents, rent rooms and provide alcohol for teens as part of the celebration; when the room includes a minibar, the alcohol is already available in the room.

In Michigan, one prosecutor has put hotel and motel owners (as well as limousine rental companies) on notice that they are violating the law against furnishing alcohol to minors if they permit teen parties on their premises or in limousines (*Beverage Industry News*, 1994).

Teen party ordinances can establish clear responsibilities for hotels and motels, requiring them to provide adequate security and holding them liable if they negli-

**In Marin County, California, high school students obtained access to a hotel room following a dance, and three boys sexually assaulted a 15-year-old girl during the ensuing party. The party became so disruptive that the hotel refunded \$4,000 to other guests. In response, hoteliers joined prevention groups and law enforcement agencies to develop a program for deterring teen parties in hotels and motels (Wilson, 1997). The program includes the following components:**

- **Hotel and motel owners provide adequate security to identify any rooms where teen parties might be occurring;**
- **Law enforcement personnel target hotels and motels on high risk nights; and**
- **Program representatives discuss the program with students and parents.**

## BEST PRACTICE 14

### Implement teen party ordinances.

Prohibit teen drinking parties at private residences and impose fines and fees for law enforcement services on homeowners or renters.

gently rent rooms for teenage parties. If minibars are permitted, hotels and motels should be required to develop strict monitoring policies, particularly during high school graduation periods.

## Alcohol restrictions at public places

Public place restrictions control the availability and use of alcohol in parks, recreation facilities, beaches, parking lots, and other unsupervised locations that are either publicly owned or open to the public. These are favorite arenas for unsupervised teen drinking parties that can lead to serious alcohol problems (e.g., sexual assaults, other forms of violence, drinking and driving, and vandalism).

In response, many communities have banned consumption of alcohol or possession of open containers in unsupervised public locations. Several resort communities in California, for example, have banned or restricted alcohol consumption on public beaches with positive results (Cassady, Flora, & Foote, 1987). Despite early concerns raised by the tourism and alcohol retail industries, the bans have not hurt their businesses. Police report a reduction in law enforcement problems and a change in the composition of beach crowds, with more families and more diversity in age groups (P. Supone, personal communication, October 1998). Drinking bans in public places work best if they cover all public, unsupervised locations except those identified as unlikely sites for youth drinking. (Exceptions for organized gatherings may also be developed, as discussed below.) Communities should tailor the ordinances to their specific circumstances.

Many communities permit organized private gatherings (e.g., weddings, company picnics, or other private parties) to serve alcohol in public recreation areas, a form of availability that parallels alcohol service at public events. If the gathering is private and alcohol is not available for sale, a temporary retail license may not be needed. Recreation departments should require that the organizer obtain a permit before alcohol service is permitted. The departments should determine which facilities shall remain alcohol free and issue permits that establish guidelines for alcohol service in other cases. Guidelines should include

1. Stipulating no sales or service to minors or intoxicated persons;
2. Requiring trained servers and management policies for large gatherings similar to those recommended for special events (see chapter 1);
3. Providing alternative transportation for those who become intoxicated; and
4. Requiring a security deposit to cover any law enforcement or other costs.

To be effective, alcohol restrictions for public places need to include a vigorous enforcement component.

**Communities in Ontario, Canada, have experienced chronic problems associated with alcohol consumption in public settings such as parks, stadiums, and recreation halls. In response, the province implemented an ambitious project to develop a model set of community guidelines for regulating alcohol use in public spaces, which 107 municipalities adopted. A subsequent evaluation reported positive results: 44 municipalities reported reductions in problems, including underage drinking, fighting, vandalism, police interventions, and public complaints. Only seven reported no impact, with the remainder stating that it was too early to judge the results, they did not have problems to begin with, or they were uncertain of the impact (Gliksman et al., 1995).**

## BEST PRACTICE 15

### Restrict and monitor teen parties at motels and hotels.

Develop community programs to insure that teen parties do not occur in hotels and motels; if minibars are permitted, the establishments should be required to strictly monitor their use by young people.

Communities need to work with law enforcement agencies to identify locations likely to attract youth drinking parties and allocate adequate resources to conduct patrols, particularly during high-risk periods.

## Penalties for Violating Noncommercial Availability Restrictions

As discussed in chapter 1, the purpose of penalties, from a public health perspective, is to *deter* the prohibited behavior. Deterrence requires swift, certain imposition of a significant negative consequence, and the threat of the negative consequence must continue over time. Administrative penalties, the most effective tool for creating a deterrent effect in commercial settings, are not available in noncommercial settings because no license is involved. Criminal penalties may be imposed, but they have the same weaknesses described above: in general, they are neither swift nor certain. Civil liability penalties are also available but should not be the primary deterrent strategy, since civil liability lawsuits are relatively rare events and therefore also tend to be lengthy and unpredictable.

To address these problems, the punishment for non-commercial violations should share many of the same characteristics of administrative penalties. When appro-

appropriate, noncriminal fines or fees should be imposed. For example, homeowners or renters who allow teen parties at their residences can be assessed a fee for the cost of the law enforcement response, and beer keg purchasers and private hosts of problematic drinking parties in public locations can lose refundable deposits for violations. Public nuisance ordinances may provide additional avenues for civil penalties imposed on residential or commercial property owners who negligently permit teen parties to occur on their property.

Regulations should permit a range of criminal penalties, depending on the seriousness of the offense. Violations that constitute a first offense that does not involve serious public disruption, large teen parties, or bodily injury should be treated much like traffic tickets—defining the offense as an infraction and imposing a substantial fine and community service, but not necessarily creating a criminal record. To streamline the handling of such violations, procedures should be established that provide a venue for experimenting with nontraditional forms of punishment (e.g., administered through community boards established by the court system).

Relatively severe criminal penalties should be permitted for serious violations. Prosecutors should have the discretion to impose stiff fines and possible jail terms for supplying alcohol to large teen parties or for individual or group use that results in injuries and serious

**California provides an interesting case example. In 1997, State increased the penalty for supplying alcohol to a minors to a \$1,000 fine and 24 hours of community service (from a previous maximum fine of \$250) (California Business & Professions Code §25658 [e][2]). A tragic alcohol-related traffic crash following a teen party resulted in four deaths, but the convicted supplier received what the community perceived as too lenient a punishment. As a result, the legislature passed new legislation in 1998 that imposes a 6month to 1-year jail term for violations that result in great bodily injury or death (California Business & Professions Code §25658[e][3]).**

## BEST PRACTICE 16

### Establish alcohol restrictions in public locations.

Prohibit or strictly limit alcohol consumption and open containers in unsupervised public locations such as beaches, parks, parking lots, and recreation facilities. Require hosts who serve alcohol at private functions in these venues to obtain permits that include responsible beverage service guidelines and a refundable deposit to cover any enforcement costs.

public disruptions (fights, vandalism, and loud, late night noise), and convictions should lead to a criminal record. Repeat offenders should also face stiffer criminal consequences.

Many States have developed a graduated set of criminal penalties that permits flexibility, but the use of civil penalties and alternative modes of punishment that avoid formal criminal court procedures are rare. Many States are increasing the penalties, but in general they are not addressing the other major criteria for enhancing the deterrent effects of the penalties to be imposed. By relying primarily on formal criminal prosecutions and not increasing enforcement efforts, punishment is unlikely to be either swift or certain (Ross, 1992).

California relies primarily on formal criminal procedures for imposing penalties. Although its shoulder-tap program has provided new emphasis on violations, enforcement remains sporadic across communities and a low priority for most law enforcement agencies and prosecutors. The new penalty for serious violations appropriately increases the range of penalties. However, the relatively severe minimum fine and the reliance on the formal criminal justice system probably



lessens the likelihood of prosecution, particularly in cases that do not involve serious community disruption or injury. The vast majority of violations go undetected (c.f. Wagenaar & Wolfson, 1994; Wolfson et al., 1995), and most that are reported probably are not successfully prosecuted (statistics are unavailable). Although a few cities have enacted teen party ordinances, the vast majority have not. In these instances, the level of deterrence is very low in most communities because the punishment, while relatively severe, is neither certain nor swift. The State legislature has increased penalties, a favored political response to health and safety problems, but it has failed to address the other critical variables in building an effective deterrent strategy.

Several States permit civil liability claims for noncommercial furnishing of alcohol to minors when some sort of serious harm results. Absent homeowners who allow their residence to be used for teen parties may also face liability claims (Mosher, 1999b). Specific provisions regarding who may sue, the required level of proof, and permissible defenses—among other legal issues—vary from State to State. Most States, however, refuse to impose this form of liability on noncommercial suppliers of alcohol, even though a liability determination is consistent with common law negligence principles and

## BEST PRACTICE 17

**Apply appropriate penalties to illegal transactions in noncommercial settings.**

Impose civil penalties where applicable; impose a range of criminal penalties and civil liability, either separately or in addition to applicable civil penalties. To increase the penalties' deterrent effects, establish streamlined procedures for imposing sanctions in cases that do not involve serious community disruption, large teen parties, or bodily injury.

research on commercial civil liability suggests that it will deter alcohol-related traffic crashes. States should therefore expand their civil liability doctrine to include noncommercial servers; it reasonably places part of the burden for causing harm on a negligent party and may reduce youth alcohol problems.

# 3

## Minors in Possession of Alcohol

Chapters 1 and 2 describe regulations that target adults who provide alcohol to minors or control locations where youth drinking occurs. A third type of regulation shifts the focus to the minor, imposing sanctions for possession or consumption, with five specific topics:

1. Possession in public and private settings;
2. “Cops in Shops” programs;
3. Consumption before or while driving a motor vehicle (zerotolerance laws);
4. Possession of false identification; and
5. Penalties for violations.

### Restrictions on Possession of Alcohol by Minors

All States prohibit minors from possessing alcohol in at least some circumstances. Most States prohibit minors from possession in public places unless incidental to employment, although many provide exceptions and do not extend the prohibition to private residences. Several States permit public possession if a parent or adult spouse is supervising; a similar requirement sometimes extends to private locations (Inspector General, 1991). For example, New Jersey prohibits a minor from possessing or knowingly consuming any alcoholic beverage “in any school, public conveyance, public place, or place of public assembly, or motor vehicle ...” (New Jersey Statutes § 2C:33-15). Nevada prohibits possession “in public” unless a parent, spouse, or legal guardian is present (Nevada Revised Statutes Annotated § 202.020). As noted in chapter 2, some States prohibit adults from supplying alcohol to minors in private residences but permit minors to possess in these venues. Utah holds the reverse: minors are prohibited from possessing in any location, but parents are permitted to furnish alcohol to them (Utah Code Annotated §§ 32A-12-203; 32A-12-209).

As discussed in chapter 1, the private residence exception makes it more difficult for law enforcement to intervene at teen parties. States should make the possession prohibition consistent with provisions affecting adult suppliers: prohibit possession by minors in both private and public settings, with a possible parental/spouse supervision exception in private residences (Inspector General, 1991; President's Commission, 1993). The exception should apply only to the child or spouse of the adult supervisor.

## “Cops in Shops” Enforcement Programs

The Century Council, an education and prevention organization funded by the alcohol industry, developed the “Cops in Shops” program in 1993 as a strategy for apprehending young people attempting to purchase alcohol at commercial alcohol retail establishments. The program places law enforcement officers behind the counter of participating establishments, posing as clerks, and outside the store, to deter adults from purchasing alcohol for minors (a variation of the shoulder-tap program described in chapter 2). The program includes warning signs prominently displayed in the establishments, and local media coverage to increase young peoples’ perception that they will be apprehended if they attempt illegal purchases. The Century Council stresses that the program builds a strong partnership between retailers and law enforcement and should be instituted communitywide.

“Cops in Shops” has become an increasingly popular response to community concerns about youth access. However, more effective and efficient strategies may be available for reducing illegal sales. No evaluations have yet determined whether the “Cops in Shops” program actually reduces illegal purchases, and a high ratio of time and energy is required of law enforcement to address each violation, since a participating officer can typically monitor only one or two stores at most during an evening. The lack of adequate coverage greatly reduces the potential deterrent effect of “Cops

### BEST PRACTICE 18

#### **Ban possession by minors in public and private locations.**

Prohibit possession by minors (unless incidental to employment) in public and private locations, with a possible exception in private residences if a parent or spouse is present.

in Shops.” The program’s initial publicity may make an impression on young people, but this will most likely dissipate over time, particularly since it is not designed as an ongoing, routine enforcement strategy.

This contrasts sharply with compliance-check programs, where an officer and an underage decoy can monitor dozens of retail outlets in the course of two or three weekends and, in many communities, can achieve 100-percent coverage over time. As discussed above, research shows that a well-designed program focusing law enforcement efforts on the commercial supplier will substantially reduce illegal sales and is relatively inexpensive.

Many critics argue that the alcohol industry is promoting “Cops in Shops” programs to undercut compliance-check programs, shifting enforcement resources from apprehending the adult retailer to apprehending the young person (for discussion, see Mosher, 1995). The Century Council Project Kit (Century Council, 1996, p. 3) appears to confirm this. It states that enforcement focuses on “...the individual breaking the law [i.e., the minor]” and that this focus is “... a key factor in [retailer] participation.” The program, in other words, minimizes the retailers’ responsibility to obey the law and at least implies that it should not be implemented in conjunction with a compliance check program, since this would undermine retailer participation. In California, the alcohol industry’s attempt to curtail the



State's compliance-check activities was funded primarily through a grant program to local law enforcement agencies. Its proposed legislation, defeated after a spirited opposition campaign by public health groups, would have required the local agencies to spend at least 50 percent of the grant funds on "Cops in Shops," replacing compliance-checks and other enforcement activities targeting retailers (California S.B. 1696, 1998).

"Cops in Shops" has been used on a limited basis to target establishments that are popular purchasing venues for young people. This strategy, particularly when combined with a shoulder-tap program, would probably reduce or eliminate youth purchases at least in the short term. Targeted compliance checks, however, would produce the same result at less cost and for a longer period of time.

"Cops in Shops" has also been used successfully to establish positive relationships with alcohol retailers—one of its promised outcomes. The participating officers can review the retailers' responsible beverage service policies and procedures, alert them to potential risky or illegal practices, gain insights into their problems and concerns, promote staff training, and reduce retailers' resistance to other law enforcement activities. In some communities, this may be an important step in building political support for a comprehensive strategy to reduce youth access (J. Peters, personal communication, March 1999). Organizers should be wary of this strategy, and make sure that "Cops in Shops" does not supplant—instead of **offering a stepping stone to**—compliance checks and other supplier-oriented enforcement programs already proven effective.

## Zero-Tolerance Laws

All States have enacted zero-tolerance laws, which strictly limit the permissible BAL of any driver under age 21 (Voas, Lange, & Tippetts, 1998). The Federal Government prompted the passage of these special restrictions on youth driving in 1997 by threatening to

### BEST PRACTICE 19

#### Use "Cops in Shops" programs sparingly.

Use "Cops in Shops" programs only for possible limited targeting of retail outlets popular with youth purchasers and to establish a working relationship with retailers as a first step toward implementing a comprehensive prevention strategy that includes a compliance-check program.

withhold highway construction funds from any nonconforming State. The permissible BAL ranges from .00 (no drinking in the last hour) to .02 (one drink consumed by a 150-pound man within a 1-hour period). Zero-tolerance legislation brings drinking and driving laws into conformity with minimum age drinking laws and contrasts with adult restrictions, which permit .08 BAL or higher.

Zero-tolerance laws respond to a body of research demonstrating that young drivers already elevated risk of traffic crashes will increase exponentially if they drink even small amounts of alcohol before driving (Hingson, Heeren, & Winter, 1994). Evaluations have confirmed that strict blood alcohol limits for young people reduce their risk of traffic fatalities; States with a BAL requirement of .00 show greater reductions than States with BAL requirements of .02. Hingson et al. (1994), for example, found a 22-percent decline in alcohol-related fatal crash rates for youth in States setting .00 as the permissible BAL, a 17-percent decline in States with a level of .02, and a slight increase in comparison States. They estimate that zero-tolerance laws save at least 375 fatal crashes each year among drivers 15–20 years old. Other studies have found similar declines in fatality rates, although specific findings have varied (Zwerling & Jones, 1999).

Many States combine their zero-tolerance laws with administrative license revocation provisions. In California, for example, law enforcement officers may seize the young person's license at the scene of the arrest, which begins a license suspension period of 1 year. The driver may appeal the license suspension in an administrative hearing, which is held separately from any criminal proceedings (Voas et al., 1998). These administrative license revocation provisions increase the potential deterrent effect of zero-tolerance laws by increasing both the certainty and the speed of punishment (Voas et al., 1998). They also provide an important additional tool for law enforcement, addressing many of the obstacles officers face in handling young drinking-driver offenders.

Public awareness is a key component in implementing zero-tolerance laws. One study found that the change in the law combined with a vigorous campaign resulted in a 50-percent reduction in alcohol-related crashes among young people (Blomberg, 1993).

## False Identification

Law enforcement officials and retailers report that the use of false identification contributes significantly to underage alcohol access (Inspector General, 1991). Young people can easily obtain false identification by either altering a valid card or purchasing a near-perfect reproduction from firms that specialize in their production. Increasingly, the Internet serves as a source for false identification. Research conducted by Preusser et al. (1997) suggests that young people do commonly carry false identification. They surveyed more than 4,000 underage college and high school students in New York and Pennsylvania; 36 percent reported having used some form of false identification. Fourteen percent of the entire sample used someone else's identification and another 12 percent altered the birthdate or picture of a valid identification. These forms of false identification can be detected if the retailer has the proper equipment and has trained its staff. Somewhat fewer respondents reported purchasing false identifica-

### BEST PRACTICE 20

#### Implement and enforce zero-tolerance laws.

Prohibit minors with any measurable BAL from driving a motor vehicle; authorize immediate seizure of the young offender's driver's license at the scene of arrest as part of an administrative license revocation procedure.

tion or obtaining apparently valid cards or licenses from an official source by misrepresenting their age. These are more difficult to detect, although retailers can minimize their impact by limiting the types of acceptable identification and using the new technology described in Chapter 1.

Despite the prevalence of false identification, young people report that they use them infrequently (Biko Associates, 1998; Grube, 1997; Wagenaar et al., 1993). Instead, they attempt to buy without identification; and if it is requested, they respond that they misplaced it or left it at home. This is frequently a successful strategy and reduces the risk of being apprehended for either an illegal purchase or possessing an illegal identification card. As discussed above, compliance check surveys (which do not use false identification) confirm young peoples' reports: a large percentage of retailers in most communities sell alcohol to minors without inspecting identification cards. Of course, as merchant compliance improves, minors may turn increasingly to false identification as a way of obtaining alcohol.

While deterring the use of false identification may not be as important as instituting compliance checks and responsible beverage service procedures, the problem remains a significant one that needs to be addressed. Most States have imposed strict penalties on the manufacturers of false identification and on minors for possessing or using them. Federal involvement may be

necessary to apprehend suppliers of false identification because they frequently operate across State lines (Inspector General, 1991). Many States, including California and Georgia, have recently enacted statutes that allow a retailer to confiscate an apparently false identification and hold it for up to 24 hours to allow for law enforcement inspection (California Business & Professions Code § 25659 and Georgia Code § 3-3-23(I)). These laws should be implemented in conjunction with interventions described in chapter 1. The optimal strategy is for States to develop identification cards that are difficult to alter or reproduce, retailers to install technology that can read the cards' magnetic strips, and retailers to train all staff responsible for determining the age of customers.

## Penalties Applied to Underage Offenders

Punishment of underage offenders should be based on criteria similar to those outlined for commercial and noncommercial suppliers. The purpose of punishment should be primarily to *deter* the illegal behavior.

Administrative penalties are more certain to be imposed swiftly than criminal sanctions and thus have greater potential for creating a deterrent effect.

Administrative revocation of a minor's drivers license under zero-tolerance laws provides an excellent example of this principle.

As with noncommercial providers, there are relatively few other opportunities to impose administrative-style penalties on minors for illegal possession of alcohol. Schools typically impose school-based sanctions (e.g., suspension, expulsion) for possessing alcohol on school premises. Some States impose school and drivers license penalties on minors who violate alcohol purchase laws, even if the offense does not occur at school or while driving. Georgia (Georgia Code § 3-3-23.1), for example, mandates a 6-month suspension of the minor's drivers license for a first conviction of attempting to purchase alcohol and a 1-year suspension for

### BEST PRACTICE 21

#### **Ban false identification.**

Prohibit the production, distribution, possession, and use of false identification. Increase the use of identification that can be scanned using a magnetic reader, and encourage or require scanning by merchants.

subsequent violations. Many argue that this use of administrative penalties violates basic principles of fairness because the penalty (the loss of privilege in the school or on the highway) is not directly connected to the violation (which did not occur at school or while operating a motor vehicle).

The primary penalties for minors involve criminal sanctions, usually fines and/or community service with possible mandated education or treatment programs. As with noncommercial servers, this use of criminal sanctions is unlikely to create a deterrent effect because prosecutors and judges do not give the cases priority, and the process involves long delays. Punishment is neither certain nor swift—two key variables in developing an effective deterrence policy. State and local governments should establish procedures similar to those used for traffic and parking infractions to streamline the handling of possession and purchasing cases involving minors, and experiment with nontraditional forms of punishment (e.g., community service imposed by community boards, which are created under the supervision of the court system).

Even with nontraditional forms of punishment, establishing effective deterrence is difficult. Arrest of a minor for violating underage alcohol laws is rare even though violations are so common. A large percentage of young people drink at least occasionally, a significant minority drink both heavily and regularly, and these rates increase steadily with age, beginning in the

early teenage years. Wagenaar and Wolfson (1994) estimate that only 2 of every 1,000 occasions of youth drinking result in an arrest. This incidence of detection undermines the law's deterrent effect.

Additional problems arise in penalizing underage drinking. These laws criminalize the majority of young people, which creates the danger of discriminatory enforcement, particularly since both law enforcement personnel and district attorneys consider violations to be a low priority. Some argue that young people use alcohol or tobacco in response to social cues and pressures provided by adult norms, advertising, etc., and that the purpose of the law is to protect, not punish, young people; therefore, the focus of enforcement should be on the adult suppliers and marketers (for discussion, see Mosher, 1995; Cismoski, 1994).

Because of limited resources, enforcement should concentrate on more serious violations, particularly at teen parties in both private and public settings. If the alcohol purchase or consumption leads to violence, a motor vehicle crash, vandalism, or other crime, the offender can be punished for these aggravated circumstances under the statutes that prohibit the more serious offenses.

The most active area of legislation addressing youth access is to impose a wider range of more stringent penalties on young people. This trend is unfortunate

### **Apply appropriate penalties to minors in possession.**

Impose administrative license revocation and other administrative and civil penalties where applicable for violations of zero-tolerance laws. Establish streamlined criminal procedures, and experiment with nontraditional forms of punishment. In more serious cases, impose criminal penalties applicable to the crimes committed as a result of youth possession and purchase. Resist proposals to increase the severity of criminal penalties for youth possession or purchase not associated with other crimes.

because stiffer penalties will have little or no effect. Imposing stiffer penalties provides the appearance of addressing the problem without political fallout but is likely to have no actual preventive impact. Swift and certainty of penalties will have a greater effect on youth behavior.

# 4

## Toward Implementation of Regulatory Strategies

Efforts to implement regulatory strategies to reduce youth access face formidable barriers. First, alcohol retailers and other commercial interests often generate significant political opposition to many interventions. Second, law enforcement agencies, faced with shrinking resources and increased demands for services addressing other social problems, consider youth access to alcohol a low priority and perceive a general acceptance of youth drinking by many segments of their communities (Wolfson et al., 1995). Third, in many jurisdictions, the respective roles of State and local governments are confused, making effective collaboration difficult or impossible. Finally—and perhaps most importantly—regulatory action must occur in the context of a comprehensive community program that focuses on changing community norms and expectations. Regulatory interventions will be difficult or impossible to maintain over time and will fall short of their desired impact if this community context is not developed as part of the implementation process.

Results of a recent national survey refute the widespread perception that communities condone youth drinking and do not support the regulatory strategies proposed here. Harwood et al. (1998) surveyed a representative sample of 7,546 Americans ages 18 and older; 69.3 percent stated that they were very concerned, and 26.5 percent stated they were somewhat concerned about teen drinking. This high level of concern translates into strong support for government regulatory action. Eighty-two percent stated that retailers are not careful enough in preventing teenagers from buying alcohol; 83 percent supported penalizing adult suppliers; and 66 percent supported compliance-check programs. Large majorities supported other regulatory policies proposed here, including: restrictions on drinking in public streets, parks, and beaches (92 percent, 90 percent, and 82 percent, respectively); mandatory responsible beverage service programs (89 percent); restrictions on drinking at concerts and sports stadiums (85 percent and 77 percent); minimum age of 21 for alcohol servers (80 percent); beer keg registration (61 percent); and bans on home delivery (59 percent). (The survey did not include questions on the other policies included in this guide.) Seldom do public opinion surveys find such strong support for governmental regulatory action.

The barrier to implementation, then, is not public apathy or opposition. The task is to organize the community desire for action and translate it into effective policy development using the democratic process (for discussion, see Mosher, 1999a). This chapter briefly addresses four issues critical to building this grassroots voice and implementing the regulatory proposals described in the previous three chapters:

1. Establishing enforcement priorities;
2. Determining the roles of State and local governments;
3. Encouraging youth participation and activism; and
4. Developing complementary prevention policies and programs.

## Enforcement Priorities

Establishing enforcement priorities is a crucial step in reducing youth access to alcohol. Previous chapters have described the key elements of deterrence—the importance of imposing a significant penalty in a process that is perceived to be both certain and swift. Enforcement is therefore a key component in any deterrence-based strategy; without it, a community perception will emerge that there is no risk of punishment.

Law enforcement agencies have limited resources and must constantly respond to competing demands. Therefore, communities need to advocate for increased resources to address youth alcohol problems, and they also need to develop a clear set of priorities to ensure that the available resources are efficiently used to achieve desired results. Three primary criteria should be used:

1. Does the policy address high-risk settings or activities associated with serious harm?
2. Is there good probability that the policy will be effective if enforced (i.e., it will *deter* the unwanted behavior)?
3. Can the policy be enforced efficiently?

### IMPLEMENTATION PRINCIPLE 1

#### Set policy and enforcement priorities.

Establish seven priorities for enforcement in the following order:

1. Routine, ongoing compliance checks.
2. Teen parties in both public and private settings.
3. Adult suppliers of teen parties.
4. Zero-tolerance laws.
5. Commercial licensing restrictions.
6. False identification manufacturers.
7. Shoulder-tap programs.

Community circumstances will influence the most effective mix of law enforcement activities. The following set of priorities establishes general guidelines or principles for implementing regulatory policies, based on the scientific literature and the analyses in previous sections. Each community can adjust them to meet its particular needs, problems, and conditions, translating them into specific law enforcement actions.

#### **Priority #1: Routine, ongoing compliance checks.**

The first step in shifting community norms and expectations is to demand that commercial alcohol vendors take all reasonable steps to prevent sales to minors. As discussed above, compliance checks are both effective and efficient and can be funded through fines or modest increases in license fees.

#### **Priority #2: Teen parties in both public and private settings.**

Effective enforcement of regulations targeting noncommercial providers and settings for youth alcohol consumption requires substantial resources. Yet because of the potential for harm, it represents a high priority for action. Given limited resources, priority should be given to enacting teen party ordinances and deterring those teen parties that pose a significant threat to community health and



safety. There should be regular patrols of likely drinking locations on Friday and Saturday nights.

Communities should incorporate neighborhood watch and other neighborhood groups into the process, to quickly alert police when there is evidence of teen parties in private residences. Parks and recreation departments should also assist in identifying potential party locations.

**Priority #3: Adult suppliers of teen parties.** When teen parties are discovered, a high priority should be placed on penalizing adult suppliers and enablers. This priority requires substantial resources, vigilance, and persistence to be effective, but major dividends are realized. The goal is to send a clear message to the community that adult involvement in large teen parties is unacceptable, and any adult who assists or permits large teen parties will face a substantial penalty. Keg licensing ordinances provide an important enforcement tool to meet this goal.

**Priority #4: Zero-tolerance laws.** Zero-tolerance laws meet two of the three criteria for establishing priorities by effectively addressing a substantial community harm. Enforcement may require substantial resources, although it can be incorporated into other community programs to deter drinking driving.

**Priority #5: Commercial licensing restrictions.** These restrictions complement compliance checks, reduce youth access, create a healthy commercial climate for alcohol sales, and are probably the easiest to enforce using minimal law enforcement resources. For example, restricting the location of alcohol outlets is primarily a licensing function with little or no law enforcement involved. Periodic visits that can be combined with the compliance-check program will reveal whether alcohol retailers are obeying minimum server age, keg registration, home delivery, and mandatory responsible beverage service laws; using appropriate age identification equipment; and restricting minors' access to bars and nightclubs. It is also easy to monitor special events planners for illegal alcohol sales and license restriction infractions.

**Priority #6: False identification manufacturers.**

Federal and State governments should create tamper-proof identification cards and licenses, enact legislation to ban manufacture of false identification, and vigorously pursue and prosecute companies and individuals in violation.

**Priority #7: Shoulder-tap programs.** Because of their expense, programs that target adult strangers who purchase alcohol for minors should be limited to locations reported as notorious sites for youth purchases.

It is important to note that vigorous publicity associated with any enforcement action can magnify its deterrent effect. Therefore, news coverage of campaigns should be planned and encouraged.

These priorities represent a significant shift from current practice. Wagenaar and Wolfson (1994) found that prosecuting any violations of youth access laws is rare; and when the laws *are* enforced, minors are most likely to be the target. Only 2 of every 1,000 occasions of illegal drinking by youth result in an arrest, and only 5 of every 100,000 youth drinking occasions result in an administrative action against an alcohol outlet. Arrests of noncommercial suppliers of alcohol are even more rare.

## The Role of State and Local Governments

State and local governments play critical roles in developing, implementing, and enforcing youth access regulations. States determine the extent of local authority, which varies widely. Gorovitz, Mosher, & Pertschuk (1998) describe four distinct approaches that States use to regulate retail sales of alcohol:

1. Prohibition of local control in virtually any circumstance;
2. Allocation of primary responsibility for retail regulation to the State, but permitting limited local control through land use powers;

3. Concurrent control, with the State providing basic standards, but permitting the localities to establish stricter controls provided they do not contradict State provisions; and
4. Allocation by States of primary control to local governments, with only minimal State standards.

States in the first two categories use the *State preemption doctrine*, which provides that the State does not allow, or preempts, local control in at least some circumstances. Its rationale is the need for consistency across local jurisdictions. In some instances, a patchwork of local regulations unnecessarily burdens or confuses intrastate and interstate commerce and relations. The doctrine should not be applied to youth alcohol access regulations, however, because of the need to tailor the regulations to local circumstances and needs. The fourth approach, primary local control, is also inadvisable: in many cases, statewide standards are critical in order to avoid competitive practices between localities. For example, cities with keg registration ordinances may request statewide regulation so that young people do not simply go to nearby cities where the ordinances are not in place.

Many States have already established the most effective structure for aligning State and local youth access regulations—concurrent jurisdiction. In this case, the State establishes basic standards for each of the recommended policies, to which all communities must adhere. Communities are given leeway to adapt the basic policies to local circumstances. They may set stricter standards but are not permitted to adopt less stringent ones. Most States that employ this system require both local and State licenses, and retailers must adhere to both licensing standards.

The State preemption doctrine has become a contentious issue in alcohol, tobacco, and firearms control. The three affected industries and their supporters lobby for it as a strategy to undermine local control; they can more easily and effectively influence State legislatures. Industry recommendations for State preemption may undermine public health goals, and local communities

## IMPLEMENTATION PRINCIPLE 2

### Clarify the roles of State and local governments.

Adopt concurrent State and local authority to establish and enforce youth access regulations, and avoid the State preemption doctrine. Promote partnerships between State and local agencies responsible for implementing and enforcing the regulations.

may lose their authority to develop new, innovative programs. Innovations in these policy arenas almost always emanate from local grassroots campaigns that eventually lead to Statewide action. State standards are critical, but they should not be developed at the expense of local authority (for discussion, see Gorovitz et al., 1998).

A related priority is developing effective partnerships between State and local law enforcement agencies. This usually involves State alcoholic beverage control agencies or liquor boards and local police and sheriffs' departments. State agencies can provide technical assistance, resources, and coordination of areawide activities; they may also have special authority to investigate and prosecute violations of State law. Local law enforcement is in the best position to ascertain local needs and priorities and determine the best use of State resources and assistance.

## Youth Participation and Activism

Citizen activism is central to the implementation process and provides an important new direction in youth prevention programs. Community prevention initiatives traditionally place youth in a passive role, imparting educational messages and standards and expecting them to respond rationally and responsibly. Many health educators now challenge this view. Young people receive far more powerful educational messages from the community and societal environment through



advertising and marketing messages, community alcohol policies, and adult attitudes and behaviors. Young people are acutely aware of the mixed messages in the community and recognize that adults are often telling them to “do as I say, not as I do” (Wallack, 1985).

Implementing youth access regulations provides an opportunity to engage young people and challenge them to participate in analyzing and resolving society’s mixed messages regarding youth alcohol practices. Young people are in the best position to communicate to policymakers and others the effect of adult attitudes and behaviors. They experience directly the contradiction between ready alcohol access and aggressive alcohol marketing on the one hand and the health and safety messages and strict no-use policies on the other. Youth participation can include studying and reporting marketing abuses; developing counteradvertising; participating in law enforcement programs; and meeting with and making presentations to policymakers, retailers, and marketers. Schools, parents, government agencies, law enforcement, community coalitions, and neighborhood groups should create avenues for engaging young people in this manner (for discussion, see Mosher, 1998).

The Vallejo, California, Fighting Back project’s alcohol policy coalition provides an interesting model for building youth participation. Young people

- Serve as decoys in alcohol and tobacco compliance checks conducted by city police;
- Advocate for youth safe zones by assessing the layout and advertising practices of alcohol outlets and meeting with store owners and managers;
- Work with police to determine whether alcohol outlets are obeying a local ordinance limiting the amount of advertising on outdoor windows;
- Receive public speaking training, and address both youth and adult audiences, including policymaking bodies, about alcohol policy concerns;
- Participate in neighborhood cleanup efforts designed to reduce alcohol and illegal drug violence;

### IMPLEMENTATION PRINCIPLE 3

#### **Foster youth participation and activism.**

Create opportunities for youth involvement and leadership in developing, implementing, and enforcing youth access regulations, working with schools, parents, alcohol policy coalitions, government agencies, and other community institutions and members.

- Participate in a ride-along project with DUI police patrols;
- Plan and participate in media advocacy campaigns;
- Create alcohol and tobacco counteradvertising; and
- Monitor alcohol and tobacco advertising in magazines, and send messages to magazine editors urging responsible advertising practices.

A key to the program’s success is its respect toward young people and its reliance on their creativity, ideas, and enthusiasm. Many students have continued their involvement beyond the original 6- to 9-month internship and view the program as a unique opportunity to build writing, public speaking, media, and organizing skills (G. Vasquez, personal communication, April 1999).

## Complementary Prevention Policies and Programs

Youth alcohol access regulations are only one aspect of a comprehensive community prevention strategy. Their potential for reducing youth alcohol problems will be greatly enhanced in community environments that deglamorize alcohol use, provide alcohol-free activities, send clear messages regarding risks associated with alcohol, offer easy access to recovery services for all ages, and include reasonable regulations that generally target alcohol availability. Alcohol taxation is a particularly important complementary strategy.

Research shows that young people are sensitive to price increases; even modest tax increases will significantly reduce the rates of heavy drinking and traffic crashes involving youth (Laixuthai & Chaloupka, 1993).

As discussed above, implementing prevention policies requires an informed, active citizenry. This community mobilization can be achieved through various tactics

that should become part of public health's basic toolkit. Community organizing builds grassroots participation, mobilization, and leadership. Media advocacy engages community members, increasing the deterrent effect of enforcement programs and building support among policymakers; policy advocacy brings citizens to the policymakers' tables (for discussion, see Holder et al., 1997; Mosher, 1999a).

# Conclusion

The regulatory strategies outlined in this guide cannot be viewed in isolation. Their success and continuation can be assured only by building a foundation of community participation and activism and developing complementary policies and programs designed to shift community norms and expectations. This is a worthy goal that builds community collaboration and provides participants with a sense of accomplishment in both process and outcomes. The stakes are enormous: the safety and health of our young people—the heart of our country's future.



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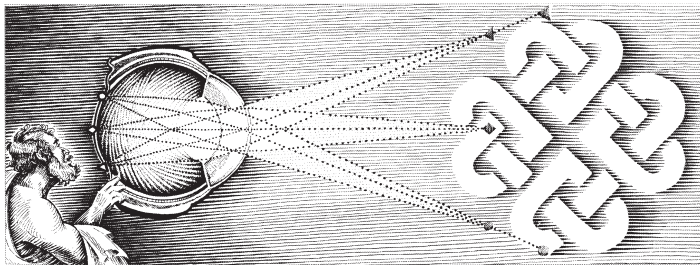
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