

Policies to Prevent Underage Drinking

Communities can effectively modify the drinking environment to decrease underage drinking by using data-driven policies. Exhibit 1.1. of the 2020 State Performance & Best Practices for Preventing and Reducing Underage Drinking Report (SPBP) lists 26 policies as best or promising practices for reducing underage drinking. The SPBP report can be found at:

https://www.stopalcoholabuse.gov/media/ReportToCongress/2020/report_main/2020_State_Perf_Best_Pract_Report.pdf.

The twenty-six best practices fall into four categories. To understand how these policies are used in practice in Wisconsin, the Wisconsin Alcohol Policy Project has color-coded the practices. **Green Bold** indicates policies that Wisconsin state law handles in a way that effectively limits underage drinking. **Yellow Underlined** indicates policies for which there either is no state law or insufficient state law, but for which municipalities may enact local ordinances or apply license conditions. **Red Italics** are policies where Wisconsin state law is in opposition to the recommended best practices for reducing and preventing underage drinking:

A. Policies addressing minors in possession of alcohol beverages:

1. **Prohibit possession by minor** – Prohibited by Wis. Stat. sec. 125.07(4)(a)2. and (b); however, some exceptions exist. Law does not apply to:
 1. Minor accompanied by a parent, guardian or spouse of legal drinking age;
 2. Minor assisting a law enforcement agency with compliance checks; or
 3. Minor whose work involves handling alcohol beverages, during work hours.
2. **Prohibit consumption by minor** – Prohibited by Wis. Stat. sec. 125.07(4)(b); however, some exceptions exist. Law does not apply to:
 1. Minor accompanied by a parent, guardian, or spouse of legal drinking age; or
 2. Minor assisting a law enforcement agency with compliance checks.
3. **Prohibit purchase or attempt to purchase by minor** – Prohibited by Wis. Stat. sec. 125.07(4)(a)1. (Law does not apply to minor assisting a law enforcement agency with compliance checks.)
4. **Prohibit making or use of false ID**/**Provide incentives** or require retailers to use ID scanners – Making, providing, carrying, or using a false ID is prohibited by Wis. Stat. secs. 125.085(3). Wisconsin does not allow municipalities to provide ID scanners to retail licensees or to provide any incentives. Municipalities may enact ordinances or attach license conditions requiring the use of an ID scanner.

5. **Prohibit internal possession by minor** – Not addressed by state law in Wisconsin. May be addressed by ordinance. In practice, minors who get a positive result on a breath alcohol test will be charged with possession or consumption of alcohol.

B. Policies targeting underage drinking and driving:

1. **Youth BAC limits (zero tolerance)** – Under Wis. Stat. 346.63(2m), a person under the legal drinking age may not drive or operate a motor vehicle with an alcohol concentration above 0.0.
2. **Loss of driving privileges for alcohol violations by minors (use/lose law)** - A minor's license must be suspended for at least 3 months for violating absolute sobriety when driving (Wis. Stat. sec. 346.63(2m)) or may be suspended for at least 30 days for a violation of possession or consumption of alcohol, even if not driving (Wis. Stat. sec. 125.07(4)(c)).
3. **Graduated driver's licenses** – In Wisconsin, during the first 9 months of a probationary license for a driver under the age of 18, the driver is restricted as to who else may occupy the vehicle, and the hours during which driving is allowed. The probationary period can be increased for violations of the state traffic code or local traffic ordinances. The probationary license does not specifically target alcohol use which is prohibited for people under age 21.

C. Policies targeting alcohol suppliers:

1. **Prohibit furnishing or sale to a minor** – Prohibited by Wis. Stat. sec. 125.07(1)(a)2. Law does not apply to a person accompanied by their parent, guardian, or spouse of legal drinking age.
2. **Social host liability** – Wisconsin prohibits adults from permitting or failing to take action to prevent the illegal underage consumption of alcohol on property owned and occupied by the adult or occupied by the adult and under the adult's control. See Wis. Stat. 125.07(1)(a).
3. **No home delivery by retailers** – Wisconsin requires face-to-face sales for all alcohol sales by retailers, although legislation is pending to change that. Alcohol can be delivered to a person's home as a post-sale service or courtesy if the person first makes the purchase in person at the retailer's premises. Municipalities may enact ordinances or attach license conditions prohibiting deliveries or regulating deliveries, so long as the face-to-face sale takes place at the licensed premises.
4. **No retailer interstate shipment** – Currently, in Wisconsin, retail licenses only permit face-to-face sales, and therefore do not permit interstate shipment, although pending legislation may change that. It is also illegal for Wisconsin consumers to receive alcohol beverages other than

wine from out-of-state retailers. However, not much, if anything, is currently being done in terms of enforcement.

5. **Liability for hosting underage drinking parties** – Wisconsin prohibits procuring or providing alcohol to underage people. It also prohibits providing a place for underage people to drink. The law against procuring or supplying applies regardless of the age of the person providing the alcohol. The law against providing a place to drink only applies if the person who provided the location is 18 years or older. See Wis. Stat. sec. 125.07(1)(a).
6. **Minimum Legal Drinking Age compliance checks** – State law does allow compliance checks to occur, but there is no statewide requirement or funding. The law limits enforcement to the person individually responsible for providing the alcohol beverage to the underage purchaser; and prohibits citations from being issued to the licensee as a result of a compliance check. See Wis. Stat. sec. 125.07(1)(b)6.c.
7. **No direct sales/shipment from producer** – Wisconsin allows wine to be shipped directly to individuals in this state who are of legal drinking age, who acknowledges receipt of the wine, and who is not intoxicated at the time of the delivery. Containers must be clearly labeled to indicate that the package may not be delivered to an underage or intoxicated person. Wisconsin does not allow the interstate shipping of beer or hard liquor to individuals. See Wis. Stat. sec. 125.535.
8. **Keg registration** – Not required by state law; but may be required by local government.
9. **Restrictions on high-proof grain alcohol beverages** – No state-wide restrictions.
10. **Restrictions on outlet siting near schools** – no premises less than 300 feet from a school, measured along highway from main entrance to main entrance; however, may be waived by a majority vote of the governing body of the municipality. Does not apply to restaurants in which the sale of alcohol beverages accounts for less than half of their gross receipts. Also does not apply to certain grandfathered premises. See Wis. Stat. sec. 125.68(3).
11. **Penalty guidelines for violations of furnishing laws by retailers** – WI state law does provide penalty guidelines for retailers that furnish alcohol to underage persons; but limits the penalties to suspension of the license or permit. See Wis. Stat. sec. 125.07(1)(b).
12. **Responsible beverage service training programs for servers, sellers** – WI only allows licenses or permits related to alcohol beverages to be issued to natural persons if they have successfully completed an approved responsible beverage server training course within 2 years prior to the date of application; but this requirement does not apply to someone who held a Class A or Class B or Class C alcohol retail license or permit within the last 2 years, or was an agent for a business

that held one, or held a manager's or operator's license within the last 2 years. Also, WI does not require manager's licenses unless a municipality elects to require them, and only requires one holder of an operator's license to be present on any licensed premises at a time. This means that most of the people selling and serving alcohol are not required to have taken a responsible beverage service training.

13. **Minimum age for cashiers/servers for off-premises sales** – Wisconsin allows any adult 18 years or older to sell or serve alcohol for off-premises consumption so long as they either have an operator's license or are being supervised by the licensee, permittee, agent, or person who holds an operator's license. Usually, a person must be 21 to hold an operator's license, but a member of the immediate family of a licensee or permittee who is at least 18 is considered by the state to automatically be the holder of an operator's license.
14. **Minimum age for on-premises servers** – Wisconsin allows any adult 18 years or older to serve alcohol on-premises or bartend, so long as they either have an operator's license or are being supervised by the licensee, permittee, agent, or person who holds an operator's license. Usually, a person must be 21 to hold an operator's license, but a member of the immediate family of a licensee or permittee who is at least 18 is considered by the state to automatically be the holder of an operator's license. Increasing the minimum age for bartenders to 21 years or older has been shown to decrease underage fatalities. Increasing the minimum age for serving alcohol beverages may decrease underage alcohol use and other substance use among those who work in the food and beverage industry.
15. **Dram-shop liability** – very limited dram-shop liability. Wisconsin provides immunity for people or businesses who sell, serve, or provide alcohol beverages against civil lawsuits by other individuals or businesses unless the person providing the alcohol forces its consumption; represents that the beverages contain no alcohol; or if the person providing alcohol knew or should have known that the recipient was under the legal drinking age and the alcohol beverages were a substantial factor in causing injury to a third party. The immunity does not apply against municipal citations or civil forfeiture actions. See Wis. Stat. sec. 125.035.

D. Policies affecting alcohol pricing:

1. **Restrictions on drink specials** – Wisconsin does not have any state laws on drink specials, but municipalities may enact ordinances restricting them.
2. **Wholesaler pricing provisions, including limits on price and extension of credit** – Wisconsin has a number of provisions how wholesalers buy and sell products. For example, a wholesaler's permit cannot be issued to a person who holds a Class A, Class B, or Class C license or permit, or a brewer's or brewpub permit. Wisconsin places a 15-day limit on the amount of credit that a

wholesaler may extend to a retailer. Wisconsin also has a minimum mark-up law that prohibits a wholesaler from selling merchandise at less than cost. See Wis. Stat. sec. 100.30.

3. **Increasing alcohol tax rates** – Wisconsin has very low tax rates and has not increased its beer tax of \$2 per 31-gallon barrel since 1969 (which is less than 1 cent per 12-ounce beer). Cider is taxed at 1.71 cents per liter. Wine containing 14% alcohol by volume or less is taxed at 6.605 cents per liter (which is just under 1 cent per 5 ounce serving of wine). Wine with more than 14% but not more than 21% alcohol by volume is taxed at 11.89 cents per liter. Intoxicating liquor (except wine with 21% alcohol by volume or less) is taxed at 85.86 cents per liter (which is less than 4 cents per 1 ½ ounce serving of hard liquor).

Wisconsin Alcohol Policy Project

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