

WYOMING PREVENTION FRAMEWORK COMMUNITIES

**A COMPREHENSIVE REVIEW OF ALCOHOL STATE STATUTES: Findings and
Recommendations for Reducing Underage and Binge Drinking in Wyoming**

DECEMBER 2008

This review of Wyoming Alcohol State Statutes was commissioned by the Prevention Framework Communities in Wyoming. The project was facilitated and managed by Johnson and Associates of Douglas, Wyoming. The report was authored by Ernest L. Johnson, Director of Services.

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EXECUTIVE SUMMARY

This report is the culmination of a ten-month effort by a multi-disciplinary group of professionals to conduct a comprehensive review of existing state statutes relative to underage and binge drinking in Wyoming. This review was commissioned by the Wyoming Prevention Framework Communities (all twenty-three counties and the Wind River Indian Reservation) with the expressed purpose of formulating a series of recommendations for the Wyoming Legislature to consider in order to more effectively respond to the high and increasing level of alcohol-related problems facing communities throughout Wyoming.

Underage and binge drinking are serious public health and safety concerns in every community in Wyoming – as they are in the rest of the country. Youth are beginning to drink at an earlier age – and they are drinking greater quantities than ever before. More than two decades of medical research is clear and conclusive on the harmful consequences involved. In addition to the increased risk-taking behavior, drinking at a young age has a detrimental and long-term harmful effect on the human brain. Further, young people who begin drinking before the age of 15 are four times more likely to develop alcohol dependence – evidence of which is the prevalence of alcohol dependence in the U.S. population among 18 to 20 year olds who typically began drinking years earlier.

The high percentage of alcohol-involved arrests (70.65%), the inordinate number of arrests for public intoxication (more than 5,000 per year) and driving under the influence (more than 7,000 per year), and the high levels of blood alcohol content for these arrests (0.236 for public intoxication and 0.158 for DUI) present serious public safety concerns and strongly suggest that a certain segment of Wyoming's population do not drink responsibly. The obvious risks associated with these statistics should no longer be ignored or minimized.

It is also important to note that the public health and safety concerns that need to be addressed actually result from the actions of a few. Most residents in Wyoming do not drink or they drink responsibly. Binge drinkers comprise only 23% of the population – yet they drink 76% of the alcohol. The changes in legislation that are being recommended will affect only a relatively few of Wyoming citizens.

This Executive Summary provides a brief discussion of a few of the more important concerns that came to light during the ten-month review process. They address issues involving possession, furnishing, licensing and taxation.

Executive Summary (continued)

Minors in Possession

Wyoming law bans possession but does not specifically prohibit consumption. Prosecutors, law enforcement officers and Circuit Court judges provided testimony that the existing language has inadvertently created a number of legal “loopholes” in the law pertaining to youth possession of alcohol. They provided numerous examples of how this is occurring in many courts in the state – and whereby the legislative intent of keeping youth from drinking is being thwarted.

Some courts in Wyoming are interpreting the current language to mean that unless the minors are physically “holding” the alcohol container in their hands, even if they are drunk, they cannot be prosecuted. Further, even if minors are drunk, but are in a private home or not out in public, they cannot be prosecuted. This is a significant issue in Wyoming given the fact that most underage drinking parties take place in private homes.

The weaknesses or ambiguities in this law can and should be remedied easily. This report identifies the problem areas and provides general recommendations for improvement.

Furnishing Alcohol to Minors

Wyoming law provides for a parental exemption relative to the furnishing of alcohol to minors. Prosecutors in Wyoming are seeing a disturbing increase in parents providing alcohol to their own and other people’s children – often resulting in serious injuries or death to the youth involved or others. As a result of this trend, it is one prosecutor’s belief that the furnishing of alcohol to minors, whether by family members or others, essentially equates to endangerment of the child. This prosecutor recommends adding language whereby “*any adult or parent that provides alcohol to underage youth be guilty of reckless endangerment.*”

Testimony was also provided concerning the volume of medical research which is now available that describes in great detail the harmful effects of alcohol on the developing brain of anyone under the age of 21. The harmful effects of alcohol on the still-developing brain, coupled with the injurious or fatal consequences that often result from minors consuming alcohol and who subsequently engage in risky behavior, are compelling reasons for recommending the elimination of the existing exemptions which allow the furnishing of alcohol by family members.

Licensing of Liquor Retail Establishments

Liquor licenses in Wyoming are created by the State and are allocated based on population to municipalities and counties. Municipal and county governments have been granted the authority by state statute to issue liquor licenses to establishments in their jurisdictions.

Executive Summary (continued)

State law does not explicitly bar municipalities from taking administrative action such as suspending or revoking liquor licenses, but it also does not specifically grant that authority.

Representatives from the Wyoming Association of Municipalities provided testimony that a question exists among many of the membership on whether local government has the authority to suspend or revoke liquor licenses. Some municipalities have received legal counsel that unless the authority is clearly specified and provided for in state statutes that they do not. This issue is causing considerable consternation among many community leaders in that they have been given the responsibility to provide these licenses by the state but have not been granted the authority to ensure the licenses owners in their communities conduct business in a responsible manner.

Although there is general agreement that the majority of liquor license owners in Wyoming conduct business in a responsible manner, there is also an acknowledgement that this is not true for all liquor license owners in the state. Testimony was provided about a number of examples where establishments consistently failed compliance checks and sold alcohol to minors or where the overconsumption by their patrons were causing serious public safety or law enforcement concerns in their community. Elected community leaders expressed the need to have the authority to be able to deal with these situations as they occur – and not have to wait until license renewal time.

Testimony was provided by law enforcement executives that the review process for liquor license renewals are not being handled in a consistent or effective manner by communities across the state. Most reviews have simply become a “rubber stamp” process where the licenses are renewed without serious consideration for the public health or safety concerns involved. There is consensus belief that this was occurring due to the lack of clear guidance from the state on “how” and “when” it would be appropriate to take such action.

Some communities, like Gillette, have developed their own protocol and are instituting the process through local ordinance. There is a definite need for a model protocol, process and set of guidelines that could assist community leaders in making decisions that would be in the best interest of public health and safety - while still affording the owners of liquor licenses appropriate due process protections. This can and should be accomplished through a collaborative effort involving representatives from the Wyoming Liquor Division, the Wyoming Liquor Retailers and community leaders.

Alcohol Taxes

Wyoming is one of 19 control states nationwide and thus holds a monopoly for the sale of spirits and wine. As a control state, Wyoming controls wholesale pricing of wine and spirits, so price is inclusive of the amount otherwise collected as tax.

Executive Summary (continued)

The current taxes on alcoholic beverages in Wyoming are:

- Beer - \$0.005 per liter (\$.02 per gallon/\$.000156 per 12 oz. Can)
- Spirits - \$0.025 per 100 milliliters (\$2.25 per case/\$.187 per bottle)
- Wine - \$0.0075 per 100 milliliters (\$.68 per case/\$.056 per bottle)

In addition to the excise taxes collected on spirits and wine, there is a 17.6% mark-up added by the Wyoming Department of Revenue – Liquor Division, of which approximately 80% (about \$7.4 million) goes back into the State’s General Fund.

Wyoming has the lowest beer tax in the United States – a tax rate that has not changed since it was established in 1935. The state with the highest beer tax is Alaska – at a rate of \$1.07 per gallon. The national average is \$.26.

It should be noted that it takes the combined tax Wyoming collects on 533.3 six-packs of beer to equal the tax collected on ONE carton of cigarettes.

In September of 2003, the Institute of Medicine/National Academy of Sciences issued its report, *Reducing Underage Drinking: A Collective Responsibility*. Among many recommendations, the report promoted the public health and safety benefits of raising state and federal taxes on alcoholic beverages, especially beer. In September 2006, the Governor’s Substance Abuse and Violent Crime Advisory Board issued the *Wyoming Response to the Institute of Medicine/National Academy of Sciences Report* in which it made similar recommendations.

Although there is unanimous agreement among members of the Review Group that communities need financial help to deal with the problems associated with underage drinking and binge drinking by adults, there is no consensus as to the best way to do so. Earmarking an increase in alcohol taxes for those purposes was discussed, as was the possibility of the legislature appropriating a portion of the “profits” already collected by the Liquor Division in order to provide those funds to local communities. Another possibility (which was attempted but failed to be introduced during the last legislative session) is a state statute that would give the local communities the authority to tax alcohol sales should the local residents elect to do so. Testimony was provided regarding the difficulties and problems that would be encountered in implementing or administering this option should it become law.

Essentially the Review Group recommends that: (1) Wyoming should substantially increase the current level of taxation on all alcohol products and use the resulting revenue for funding best-practices to reduce underage and binge drinking. Top priority should be given to raising beer taxes.

Executive Summary (continued)

(2) The State should devise an efficient, effective mechanism for collecting and administering the increased revenue from alcohol taxes and devise an equitable/efficient system for providing local governments the revenues for funding best-practice strategies to reduce underage and binge drinking in their communities.

Increasing the tax rate on alcohol will undoubtedly garner the greatest attention and will be the most controversial of the recommendations contained in this report. It also has the greatest potential for generating and providing much-needed resources for Wyoming communities.

State and local laws form the framework by which communities can minimize opportunities for youth to use alcohol and maximize the opportunities for effective intervention and prevention of alcohol abuse among adults. A genuine commitment on the part of state legislators, community leaders and government officials will be required in order to institute meaningful changes. It also requires active involvement and vocal support by Wyoming citizens to make it happen.

This executive summary provides just a few of the findings and recommendations contained in this report. A careful reading of the research, statistics and discussions of all other relative issues contained in the main body of this report is essential in order to gain a more complete and better understanding of the scope of the concerns involved.

INTRODUCTION

In January of 2008, a group of professionals representing multi-disciplines began the process of conducting a comprehensive review of state statutes relative to underage drinking and overconsumption of alcohol or binge drinking by adults in Wyoming. This legislative review, commissioned by representatives from every Prevention Framework Community in Wyoming (every county and the Wind River Indian Reservation) was undertaken with the expressed purpose of formulating a series of recommendations for the Wyoming Legislature to consider enacting in order to reduce the high and increasing level of alcohol-related problems that communities throughout Wyoming are experiencing.

The Legislative Review Group, comprised of representatives from the legal, legislative, prevention, educational, judicial, parental, state and local government and law enforcement communities was given the broad mandate to review all Wyoming state statutes that pertained to alcohol consumption, distribution, taxation and misuse. Attachment A provides a complete listing of the persons involved in this effort. The members of the group, individually and collectively, were directed to research, discuss and analyze the economic and social consequences of maintaining, modifying, eliminating or adding to existing legislation.

The Legislative Review Group narrowed the scope of the review during its first meeting from *all* alcohol-related issues to issues specifically pertaining to *underage and binge drinking*. Although the members of the group were unanimous in their belief that the issues involving drinking and driving in Wyoming was of critical concern and needed to be addressed, the deadline for delivery of the recommendations in this report limited the group's ability to conduct an adequate review in that regard. Further, the group was advised that the Governor's Council on Impaired Driving was in the process of initiating a similar comprehensive review of state statutes involving issues pertaining to driving under the influence. The Review Group decided to formally support this effort by voting to include a recommendation that a comprehensive review of all state statutes involving driving under the influence in Wyoming be undertaken as soon as possible. Driving under the Influence is a significant public health and safety issue in all Wyoming communities - and this issue has a direct relationship to and an impact on the level of underage and binge drinking that is occurring in Wyoming.

The review process took place over a ten-month period and involved formal testimony from professionals with specific knowledge, expertise and experience on a variety of alcohol-related issues. Attachment B provides a complete listing of persons who provided testimony. The Legislative Review Group also reviewed, discussed and analyzed the latest research and statistics, and compared Wyoming legislation with similar legislation nationally and regionally. All testimony presented and discussions by the members of the Review Group were recorded.

Introduction (continued)

These audio recordings have been made available for listening by the general public on the following three separate Podcasts online:

- <http://www.gcast.com/u/WYStatuteReview/main>
- <http://www.gcast.com/u/WYStatuteReview/WYStatuteReview2>
- <http://www.gcast.com/u/WYStatuteReview/WYStatuteReview3>

State and local laws and regulations form the framework of any effort to reduce underage drinking. The right laws and regulations, well crafted, can minimize opportunities for young people to use alcohol and maximize the opportunities for effective enforcement and prevention. The absence of an important regulation, or loopholes in the laws, can put youth in harm's way and frustrate enforcement efforts.¹ A thoughtful, comprehensive review of existing state laws in that regard is an essential element of any successful statewide prevention strategy.

It is with this expressed hope and purpose in mind that the Wyoming Prevention Framework Communities offer the findings and recommendations contained in this report to the members of the Wyoming Legislature.

Underage drinking and binge drinking are serious public health and safety concerns in Wyoming. The statistics in these regards are compelling and should no longer be ignored or minimized. Finding effective solutions for the issues involved will require everyone's involvement and participation. Making appropriate changes in Wyoming's existing state laws is just one element of a comprehensive strategy - but a critically important one.

The alcohol state statutes discussed in this report have been organized and will be presented in three sections:

- Minors in Possession of Alcohol Laws - which will focus on deterring young people from attempting to purchase or consume alcohol;
- Social/Public Availability Laws - which will focus on noncommercial sources of alcohol and noncommercial venues where young people consume alcohol;
- Commercial Availability Laws – which will focus on regulations pertaining to alcohol retailers

An additional section pertaining to Sanctions/Penalties will focus on deterrence, incarceration, intervention/diversion programs and juvenile justice issues in Wyoming.

¹ Deborah A. Fisher, Pacific Institute for Research and Evaluation, Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices, October 2006.

CAUSE FOR CONCERN

Wyoming has not escaped the tragic health, social and economic problems which often result from the use of alcohol by our youth. Underage drinking is a causal factor in a host of serious problems, including homicide, suicide, traumatic injury, drowning, burns, violent and property crime, high risk sex, fetal alcohol syndrome, alcohol poisoning, and the need for treatment for alcohol abuse and dependence.

The results of the 2007 Youth Risk Behavior Survey (YRBS) indicate the pervasiveness of alcohol use in the lives of teens in our state. According to the 2007 YRBS results, Wyoming students (9th through 12th grades) are self-reporting alcohol use as follows:

- 76.1% have consumed alcohol in their lifetime
- 42.4% have consumed alcohol in the past 30 days
- 29.4% reported binge drinking (consuming five or more drinks within a couple of hours) in the past 30 days
- 29.4% reported riding in a car driven by someone who had been drinking alcohol in the past 30 days
- 28.8% have had their first drink of alcohol before the age of 13 (5% higher than the national average – a statistically significant difference)
- 6.9% reported drinking at least once on school property during the past 30 days

The body of medical science and research relative to the negative effects of alcohol on human maturation, particularly the brain, is clear and conclusive. What we know from the research²:

- Alcohol is the most widely used substance of abuse among America's youth
- A substantial number of young people begin drinking at very young ages
- Young people who begin drinking before the age of 15 are four times more likely to develop alcohol dependence
- The highest prevalence of alcohol dependence in the U.S. population is among 18 to 20 year olds who typically began drinking years earlier
- 5.5% of youth ages 12-17 meet the diagnostic criteria for alcohol abuse or dependence (SAMHSA 2006)
- In 2002, 666 youth 12-20 years old were admitted for alcohol treatment in Wyoming, accounting for 20% of all treatment admissions for alcohol abuse in the state. (SAMHSA-TEDS)
- Adolescents drink less frequently than adults, but when they do drink, they drink more heavily than adults

² U.S. Department of Health and Human Services, [The Surgeon General's Call to Action To Prevent and Reduce Underage Drinking – 2007.](#)

Cause for Concern (continued)

The statistics in regard to abuse of alcohol by adults in Wyoming are equally alarming. The statistics for Wyoming adults who engage in binge drinking, heavy drinking, extreme drinking, and who drink and drive provide convincing evidence that a percentage of Wyoming citizens do not drink responsibly.

What we know from the statistics:³

- 16.7% of adults in Wyoming reported binge drinking at least once in the past 30 days (5 or more drinks for men – 4 or more drinks for women)
- 5.6% of adults in Wyoming reported that they had engaged in Heavy Drinking in the past 30 days (60 drinks or more for men – 30 drinks or more for women)
- 4.1% of adults in Wyoming reported that they had engaged in Extreme Drinking on at least one occasion in the past 30 days (10 or more drinks on one occasion)
- 2.6% of Wyoming adults reported driving after having “perhaps too much to drink” at least once in the past month

The percentage of alcohol-involved arrests, the inordinate number of arrests for public intoxication and driving under the influence, and the high levels of blood alcohol content recorded for these arrests also provide a statistical picture of the impact of alcohol abuse on crime in Wyoming.

What the latest 2008 statistics show:⁴

- Alcohol was involved in 70.65% of all custodial arrests
- Arrests for public intoxication accounted for 12.41% of all arrests – an increase of more than 2% from 2007
- The average blood alcohol content for persons arrested for public intoxication was 0.236
- Driving under the influence arrests accounted for 32% of all custodial arrests
- The average reported blood alcohol content for driving under the influence arrests was 0.158⁵
- 9% of all persons arrested for driving under the influence were under the age of 21⁶
- 40% of the juvenile custodial arrests involved alcohol⁷

³ Wyoming Behavioral Risk Factor Surveillance System - 2006

⁴ Wyoming Association of Sheriffs and Chiefs of Police, Evaluation of Alcohol Factors in Custodial Arrests in the State of Wyoming – 2008.

⁵ In Wyoming, a person driving with a blood alcohol content of 0.08 is legally presumed to be impaired.

⁶ Wyoming Association of Sheriffs and Chiefs of Police, Evaluation of Alcohol Factors in Custodial Arrests in the State of Wyoming – 2007.

⁷ Ibid.

Cause for Concern (continued)

Underage drinking and overconsumption of alcohol by adults in Wyoming are serious problems, but they are not insurmountable. Formulating, implementing and funding effective strategies in response to these statewide concerns have to be responsibilities that must be shared by all.

A genuine commitment on the part of state legislators, community leaders and government officials will be required in order to institute meaningful changes; however, it will take active involvement and vocal support by Wyoming citizens to make it happen.

CORE ISSUES

This report will identify several “loopholes” in Wyoming’s existing laws and will offer a series of recommendations that will minimize the opportunities for young people to use alcohol and which will enhance ongoing efforts to prevent the abuse of alcohol by adults.

There are three essential questions, or core issues, that members of the Legislature will likely want to consider before deciding whether to enact the recommended changes. First, “*What or who is the problem?*” Second – “*Who will be affected by the changes?*” And finally, “*Will Wyoming residents support these changes?*”

Not Everyone Is “Doing it” – Myths and Realities about Alcohol Use

“Alcohol is an integral part of American life. It is a normal accompaniment to most social events. Most Americans enjoy drinking on a regular basis.”

These are widely held perceptions about alcohol, but these perceptions are not entirely true. These perceptions – and misperceptions – affect our attitudes toward alcohol and our policies regarding the sale and consumption of alcohol by youth, as well as adults.

The reality is that a large majority of Americans either do not drink or drink infrequently. According to the 2002 National Survey on Drug Use and Health, about 46 percent of adults 21 years of age and older reported that they did not consume any alcohol in the past month and an additional 26 percent report drinking once a week or less.

The claim that the “overwhelming majority of Americans” use alcohol responsibly is true only because most Americans either abstain or consume alcohol infrequently. The reality is that although binge drinkers comprise only 23 percent of the population – they drink 76 percent of the alcohol; and although frequent binge-drinkers comprise only 7 percent of the population, they drink 45 percent of the alcohol consumed by adults in the United States. What we know from the existing data:

- Most American adults either abstain or drink very little
- Wyoming statistics mirror the national statistics in that 46% of adults report that they had not consumed any alcohol in the past 30 days⁸
- 33.1% of adults in Wyoming do not drink at all⁹
- A relatively small percentage of drinkers drink most of the alcohol
- This small percentage often consumes several drinks at a time, increasing the risk of serious health and safety problems
- _____ 10

⁸ Wyoming Behavioral Risk Factor Surveillance System – 2006 data

⁹ Wyoming Survey and Analysis Center – University of Wyoming, Wyoming Alcohol Use Issues Survey, October 2006

Core Issues – myths and realities (continued)

The picture for underage drinking on a national basis is somewhat different than for adults. Most young people reported to the National Household Survey that they had not had anything to drink in the last month. However, in terms of the quantity of drinking, the proportion of young drinkers who report drinking heavily (five or more drinks at one sitting) is higher than for adults. While about 43 percent of adult drinkers report heavy drinking on one or more occasions in the past month – 50 percent of 12 to 14 year old drinkers, 65 percent of 15 to 17 year old drinkers, and 72 percent of 18 to 20 year old drinkers report heavy drinking in the past month.

Young people who drink heavily consume the vast majority of the alcohol consumed by their age group. Percentages range from 91 percent for 12 to 14 year olds to 96 percent for the 18 to 20 year olds.

Underage drinkers consumed about 11 percent of all the alcohol purchased in the United States in 2002, and the vast majority of this alcohol is consumed in a risky fashion.

Unfortunately, the risks are even greater in Wyoming. The level of consumption by youth in Wyoming is more than double the national average. Underage drinkers in Wyoming consumed about 23 percent of all the alcohol purchased in Wyoming in 2002.¹¹

What we know from the existing data¹²:

- The majority of young people abstain from regular use of alcohol
- Young people who do consume alcohol are more likely than adults to drink heavily
- The small proportion of youth who drink heavily consume the vast majority of the alcohol consumed by underage drinkers

Who Will Be Affected by Changes in Wyoming State Statutes?

“The common public perception is that the majority of people drink alcohol and that most alcohol is consumed in a moderate fashion. Given these perceptions, the public and policy makers are often reluctant to impose restrictions and controls on how alcohol is manufactured, promoted, sold and consumed;... However, most Americans do not drink frequently and most alcohol is consumed by heavy drinkers and in a risky fashion.

¹⁰ Information, national data and quotes in this section taken from Drinking In America: Myths, Realities and Prevention Policy, Pacific Institute for Research and Evaluation, Office of Juvenile Justice and Delinquency Prevention, 2002

¹¹ Pacific Institute for Research and Evaluation, Underage Drinking in Wyoming: The Facts, March 2004

¹² Pacific Institute for Research and Evaluation, Office of Juvenile Justice and Delinquency Prevention, Drinking In America: Myths, Realities and Prevention Policy, 2002

Core Issues – who will be effected (continued)

Therefore, controls on alcohol have little or no impact on the majority of Americans, but such controls can reduce heavy and hazardous drinking, especially among underage drinkers.”¹³

The harmful consequences from overconsumption or binge drinking are real and significant. Anything that we can do to lessen the number of these occurrences will greatly reduce the injuries and loss of lives in our communities. Further, any legislation that will help to delay our youth’s onset of drinking – meaning the longer we can keep our youth from starting to drink – will have a dramatic positive effect for the future. Delaying the onset by five years reduces the risk of alcohol and drug dependence by fifty percent!¹⁴

The reality is that the health and safety of *all* Wyoming citizens will benefit from the recommended legislative changes; however, the changes that are recommended will affect only a relative few.

Will Wyoming Residents Support These Legislative Changes?

In August of 2006, a total of 4,699 Wyoming residents were surveyed by the Wyoming Survey and Analysis Center of the University of Wyoming to determine their opinions and attitudes about alcohol issues in general - and specifically their opinions about underage drinking and binge drinking in Wyoming. More importantly, this survey was conducted to more accurately ascertain the level of support in Wyoming for selected policy/legislative changes.

A survey sampling of this size typically yields a margin of error of +/- 1.5 percentage points with a 95% confidence level. This statistically high level of confidence ensures that the survey accurately represents the opinions of all Wyoming residents in regard to alcohol issues in the state. The survey also provides statistically valid and detailed county-by-county results.

What we know from the existing Wyoming survey data¹⁵:

¹³ Ibid.

¹⁴ 2002 National Survey on Drug Use and Health, Substance Abuse and Mental Health Services Administration

¹⁵ Wyoming Survey and Analysis Center – University of Wyoming, Wyoming Alcohol Use Issues Survey, October 2006.

Core Issues – will residents support changes (continued)

Survey Results for Underage Drinking

- 86.3% believe that alcohol use by underage youth in Wyoming is a serious or somewhat serious problem.
- 71% believe that binge drinking on college campuses is a problem.
- 94.6% believe that law enforcement should strongly enforce laws regulating alcohol use by youth under 21.
- 93.9% believe that adults supplying alcohol to youth under 21 should be prosecuted

Survey Results for Binge Drinking

- 77.8% view alcohol abuse by Wyoming adults as a serious or somewhat serious problem.
- 70.7% view alcohol abuse by adults in their community as a serious or somewhat serious problem.
- 89.4% would support a state law that would prohibit selling or serving alcohol to someone who is obviously intoxicated.
- 76.1% would support an increase in alcohol tax if the money were set aside to pay for drug and alcohol prevention and treatment programs.

YOUTH POSSESSION OF ALCOHOL LAWS

Possession/Consumption of Alcohol by Minors

OVERVIEW: Wyoming law prohibits possession but does not specifically ban underage consumption. Wyoming law specifies that any person under the age of 21 years “*who has any alcoholic or malt beverage in his possession or who is drunk or under the influence of alcoholic liquor, malt beverages or a controlled substance on any street or highway or in any public place is guilty of a misdemeanor.*”

Wyoming allows a person under the age of 21 years to possess alcoholic or malt beverages: when making a delivery pursuant to his employment; who is in the physical presence of his parent or legal guardian; when serving pursuant to his employment in a restaurant which holds a license to serve alcoholic or malt beverages – person must be at least 18 years of age – does not include mixing or dispensing.

DISCUSSION: Prosecutors, law enforcement officers and Circuit Court judges provided testimony that the existing language has created a number of legal “loopholes” which make the law less effective and difficult to enforce or prosecute. They provided numerous examples of how this is occurring in many courts in the state – and whereby the legislative intent of keeping youth from drinking is being thwarted.

Some courts in Wyoming are interpreting the current language to mean that unless minors are physically “holding” the alcohol container in their hands, even if they are drunk, they cannot be prosecuted. Further, even if minors are drunk, but are in a private home or not out in public, they cannot be prosecuted. This is a significant issue in Wyoming given the fact that most underage drinking parties take place in private homes.

The wording in the existing language also requires that prosecutors be able to distinguish between the involvement of alcoholic or malt beverages – which has the effect of requiring prosecutors to also prove that the alcohol involved was either one or the other.

STATE COMPARISONS: All states ban possession of alcohol by minors. Thirty-three states also specifically ban consumption.

RECOMMENDATIONS:

1. Add consumption language to possession statute.
2. Add language in possession statute that “evidence of consumption is prima facie evidence of possession.”
3. Delete “on any street, highway or public place.” Intent is to not limit where MIP is applicable.
4. Change “alcoholic or malt beverage” to “any alcoholic beverage” or “any beverage containing more than .01% alcohol.”

Possession/Consumption (continued)

5. Eliminate “immediate family” or “parent or legal guardian” exemptions. NOTE: Additional discussion and justification for this recommendation will be provided in another section of this report.

Purchasing Alcohol by Minors

OVERVIEW: The purchase and the attempted purchase of alcoholic beverages by minors is prohibited in Wyoming - except for law enforcement purposes (12-5-301 (a)(v) and 12-6-101(c)).

DISCUSSION: There were no problems noted with the existing law; however, the lobbyist for the liquor retailers recommended that the penalties for purchasing or attempting to purchase be enhanced. The retailers believe that enhancement would help deter more youth from attempting to purchase from retail establishments.

STATE COMPARISONS: Most states prohibit purchase or attempts to purchase. Twenty-three states allow exemptions for purchase as a part of a law enforcement compliance check.

RECOMMENDATIONS:

- Further discussion regarding the penalty enhancement issue with associated recommendations will be offered in the Penalties/Sanctions section of this report.

Use of False ID to Purchase Alcohol

OVERVIEW: In Wyoming, the use of a false identification to obtain alcohol is a criminal offense (12-6-101 (e – c)). Wyoming is one of only six states in the country that does not provide a provision for suspending a driver’s license when this occurs.

Retailers are responsible for insuring that sales of alcoholic beverages are made only to persons who are legally permitted to purchase alcohol. Wyoming provides driver’s licenses for those 21 and younger that are easily distinguishable from adults in an effort to assist retailers who may find themselves unwitting players in these sorts of circumstances. Retailers are also allowed a specific affirmative defense, in that their responsibility is limited, if they inspect a false ID and it appears valid.

DISCUSSION: Compliance check studies suggest that underage drinkers may have little need to use false identification because retailers often make sales without any inspection of identification. However, concerns about false identification remain high among educators, law enforcement officials, retailers and government officials.

Use of False ID (continued)

Current technology, including high quality color copiers and printers, has made false identification easier to fabricate, and the Internet provides ready access to a large number of false identification vendors.

STATE COMPARISONS: All states prohibit use of false identification by minors for obtaining alcohol. In addition to the basic prohibitions, states have adopted a variety of legal provisions pertaining to false identification for obtaining alcohol. These provisions can be divided into three basic categories:

- Provisions that target minors who possess and use false identification to obtain alcohol
- Provisions that target those who supply minors with false identification, either through lending of a valid ID or the production of invalid “fake” IDs
- Provisions that assist retailers in avoiding sales to potential buyers who present false identification.

In addition, forty-four states impose a sanction that suspends the driver’s license for the use of false IDs. Four states do so through an administrative process, forty states do so through judicial process, and two states provide for both judicial and administrative processes.

RECOMMENDATIONS:

1. Change existing language from “minor” to “persons under 21.”
2. Provide penalty provision for suspension of driver’s license. Possibly limited only for those under age 19. A process that provides for administrative versus judicial revocation is preferred.
3. Change “alcoholic or malt beverage” to “any alcoholic beverage” or “any beverage containing more than .01% alcohol.”
4. Add a provision that penalizes those who supply minors with false identification, either through lending of a valid ID or the production of invalid “fake” IDs.

SOCIAL/PUBLIC AVAILABILITY LAWS

Furnishing Alcohol to Minors

OVERVIEW: In Wyoming, furnishing to minors is prohibited except by a parent or legal guardian or immediate family member, by a spouse of legal age, and for religious, educational or medicinal purposes (12-6-101 (a), 12-6-102 (a) (b) and 12-5-502).

WSS 12-6-101 (a) prohibits any person from selling, furnishing, causing to be sold, or giving alcohol to any person under the age of 21.

WSS 12-6-102 (a) provides for enhanced penalties for the involvement of a motor vehicle. The statute states: *“No person who is at least 21 years of age shall transport, or have in his possession or control, any alcoholic liquor or malt beverage, with the intent occupying a motor vehicle.”*

WSS 15-5-502 provides for liability for sale to child, ward or habitual drunkard upon written notice.

WSS 6-4-406 (a) addresses the issue of “social hosting” – and prohibits permitting house parties where minors are present and alcohol is being possessed or consumed. The law provides exemptions for providing alcohol to: legal wards, medical patients or member of the immediate family, for religious observance or prescribed medical treatment, or during the course of lawful employment.

DISCUSSION: Prosecutors in Wyoming are seeing a disturbing increase in parents providing alcohol to their own and other people’s children – often resulting in serious injuries or death to the youth involved or others. As a result of this trend, it is one prosecutor’s belief that the furnishing of alcohol to minors, whether by family members or others, essentially equates to endangerment of the child. This prosecutor recommends adding language whereby *“any adult or parent that provides alcohol to underage youth shall be guilty of reckless endangerment.”*

Considerable discussion took place between members of the Review Group, as well as by individuals who provided testimony concerning the amount of medical research which is now available that describes in great detail the harmful effects of alcohol on the developing brain of anyone under the age of 21. The harmful effects of alcohol on the still-developing brain, coupled with the injurious or fatal consequences that often result from minors consuming alcohol and who subsequently engage in risky behavior, are compelling reasons for recommending the elimination of the existing exemptions which allow the furnishing of alcohol by family members and in private homes.

Furnishing Alcohol (continued)

What we know from the research:

- Childhood drinking injures the developing brain and otherwise interferes with important developmental tasks¹⁶
- Youth who begin drinking before the age of 15 are four times more likely to develop drug or alcohol dependency¹⁷
- Alcohol is a factor in the four leading causes of death among persons ages 10 to 24: (1) motor-vehicle crashes, (2) unintentional injuries, (3) homicide and (4) suicide¹⁸
- 2.2% of Wyoming parents surveyed would allow their child to drink at 15 years of age or younger; 5.6% at 16-17; 26.7% at 18-20¹⁹

Testimony was also provided that the legislative intent of Wyoming’s statute 12-6-102 (a) involving motor vehicles has been deemed ineffective due to the placement of the final comma in the statute’s wording. Law enforcement professionals believe this statute has value in that it allows for enhanced and second-offense penalties; however, the placement of the comma has provided for another legal “loophole” in court.

After considerable discussion, it was also generally agreed that the subsection in this statute which states that “*upon a second or any subsequent conviction under this subsection the person is guilty of a felony and shall be punished by imprisonment in the state penitentiary for a term not exceeding five (5) years*” should be taken out and instead, language which provides for an enhanced penalty for *aggravating circumstances* be added as a subsection to the general furnishing statute, 12-6-101 (a).

STATE COMPARISONS: All states prohibit furnishing to minors, although most do allow some exemptions. These are generally for furnishing by a family member or a spouse and for religious, educational and medicinal purposes.

Nineteen states have eliminated both the family and location exemptions.

Eighteen states provide for family exemptions

¹⁶ Institute of Medicine, Reducing Underage Drinking: A Collective Responsibility, (2004).

¹⁷ Grant, B.F. & Dawson, D.A. (1997). Age at Onset of Alcohol Use and its Association with DSM-IV Alcohol Abuse and Dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey. *Journal of Substance Abuse*. 9:103-110

¹⁸ Grunbaum, J., Kann, L., Kinchen, S.A., Williams, B.I., Ross, J.G., Lowry, R., & Kolbe, L.J. Youth Risk Behavior Surveillance – United States, 2001. In: *Surveillance Summaries*, June 28, 2002.

¹⁹ Wyoming Survey and Analysis Center – University of Wyoming, Wyoming Alcohol Use Issues Survey, October 2006.

Use of False ID (continued)

RECOMMENDATIONS:

1. Eliminate “immediate family” and “parent or legal guardian” exemptions in 12-6-101 (a).
2. Delete the existing language “who is at least 21 years of age” in 12-6-102 (a).
3. Change comma placement in 12-6-102 (a) to make it effective and to preserve legislative intent. It provides for enhanced penalties for furnishing of alcohol to minors while operating or occupying a motor vehicle.
4. Change “alcoholic or malt beverage” to “any alcoholic beverage” or “any beverage containing more than .01% alcohol.”
5. Substitute the felony provision for second-offense in 12-6-102 (b) with a provision for enhanced penalties for aggravating circumstances in the general furnishing statute 12-6-101 (a). The intent is to double the penalties whenever a motor vehicle is used to furnish.
6. Leave in place the habitual drunkard statute, 12-5-502. Although not used frequently, the state liquor division, social services and law enforcement professionals regard it as an effective, and sometimes necessary, tool.

Hosting Underage Drinking Parties

OVERVIEW: Social hosting or “house party” laws hold adults criminally and/or civilly liable for underage drinking events on property they own, lease or control. Wyoming passed a social hosting law in 2007 that provides for criminal sanctions only – and which does not provide for a legal recourse for civil liability.

Wyoming’s social hosting law is limited only to underage drinking parties and requires an action by a guest, such as possession or consumption, to trigger a violation. The law covers residences or premises. Hosts must have knowledge of the premises being used for that purpose.

Wyoming also provides the following exemptions: a legal ward, medical patient or member of the immediate family of the adult furnishing or giving the alcoholic liquor or malt beverage; religious observance or prescribed medical treatment; or incidental to lawful employment.

Hosting (continued)

DISCUSSION: The primary purpose of laws that establish liability for hosting underage drinking parties is to deter underage drinking parties. Although research on the topic is limited, what is available suggests that parties are high-risk settings for binge drinking and associated alcohol problems. Very young drinkers are often introduced to heavy drinking behaviors at these events (National Research Council Institute of Medicine, 2003).

Law enforcement officials report that, in many cases, underage drinking parties occur on private property, but the adult responsible for the property is not present or cannot be shown to have furnished the alcohol. Statutes that establish criminal liability for social hosts address this issue by providing legal basis for holding adults responsible for parties that occur on their property whether or not they provided the alcohol to minors.

Wyoming has not had sufficient time or experience to be able to determine whether significant problems exist with the current law; however, concerns were noted regarding the legislative intent with the use of “minor” rather than “persons under 21 years,” not including motor homes or other property and the requirement to prove that the host have “knowledge.”

Testimony was provided by Wyoming law enforcement that the social hosting law should be amended to apply to all persons under the age of 21, and not just minors. This is particularly important in a college community, where people of legal drinking age may host events with a large number of 20-year-olds. There was some debate over legislative intent in this regard. One member believed the legislative intent was based on the oft-heard belief that *‘if they’re old enough to go to war, they’re old enough to drink’* and that it was a necessary compromise in order to get the legislation passed. After considerable discussion on this issue, the Review Group agreed that it was important for reasons of consistency, as well as public health concerns, that the language be changed to persons under the age of 21.

Concerns were also expressed that the law only covers residences and premises, but was not specific as it applies to outdoor properties, motor homes and “other” properties. It was also noted that the City of Laramie, among others, passed a more restrictive ordinance that does not require homeowners to have “knowledge” – which makes the law more enforceable and more effective.

STATE COMARISONS: Wyoming is one of seven states that have a law specific to underage parties. Fourteen other states have general hosting laws. Twenty-nine states do not have social hosting laws.

Two types of liability may apply to hosting underage drinking parties: criminal liability and civil liability. Criminal liability involves a statutory prohibition that is enforced by the State through criminal proceedings which can lead to criminal sanctions.

Hosting (continued)

Civil liability involves an action by a private party seeking monetary damages for injuries that result from permitting underage drinking on the host's premises. Wyoming's hosting law does not specifically provide a process for civil liability.

RECOMMENDATIONS:

1. Change "minor" to "any person under the age of twenty-one (21) years of age."
2. Delete the exemption for "immediate family" and replace with "parent/legal guardian."
3. Amend the law to include other properties that the adult "controls or possesses" to better encompass motor homes, boats and similar situations.
4. Remove the requirement that adults must have knowledge of the party.
5. Change "alcoholic or malt beverage" to "any alcoholic beverage" or "any beverage containing more than .01% alcohol."

Alcohol Restrictions at Public Places

OVERVIEW: Wyoming does not have laws or regulations which restrict or control the availability and use of alcohol in parks, recreation facilities or other unsupervised locations that are either publicly owned or open to the public.

DISCUSSION: Testimony was provided concerning the increasing amount of underage and binge drinking by adults that law enforcement is now confronting on Wyoming State Parks. It has been estimated that more than 20,000 people visit Glendo State Park during the Fourth of July or Labor Day weekends. The number of underage drinkers and adults who get drunk on State Parks during these times (many of whom are visiting from out of state) are now beyond law enforcement's ability to effectively manage or control.

Open campsites, which allow large numbers to assemble in one common area, are becoming particularly problematic to enforce when the drinking begins to "get out of hand." Arrests of underage drinkers also pose a significant problem in that officers often are often required to "babysit" the arrested youth until they can either post bond or can be picked up their parents or guardians. State Parks administrators are currently exploring the feasibility of limiting the size and/or design of campsites to allow for better enforcement.

Alcohol Restrictions (continued)

STATE COMPARISONS: State Parks are favorite arenas for unsupervised teen drinking parties that can lead to serious alcohol problems. In response, many communities have banned consumption of alcohol or possession of open containers in unsupervised public locations. 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 - with more families and more diversity in age and groups.²⁰

Nebraska and Colorado currently prohibit possession and consumption of alcohol on state parks. These states have taken this action through administrative regulation governing the operation of the state parks rather than through legislative change.

RECOMMENDATIONS:

1. Prohibit the consumption and possession of alcohol on State Parks. The state should accomplish the necessary changes through Administrative Regulations governing the operation of State Parks rather than by legislative change.

²⁰ Deborah A. Fisher, Pacific Institute for Research and Evaluation, Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices, October 2006.

COMMERCIAL AVAILABILITY LAWS

Licensing of Liquor Establishments

OVERVIEW: Liquor licenses in Wyoming are created by the State and are allocated based on population to municipalities and counties. Municipal and county governments have been granted the authority by state statute to issue liquor licenses to establishments in their jurisdictions.

State law does not explicitly bar local governments from taking administrative action such as suspending or revoking liquor licenses, but it also does not specifically grant that authority.

Currently there are a total of 1271 liquor establishments in Wyoming²¹. This includes:

- 741 retail liquor licenses
- 272 restaurant liquor licenses (4 additional - “grandfathered”)
- 20 bar and grill liquor licenses
- 121 limited retail liquor licenses
- 27 resort liquor licenses
- 12 microbrewery permits
- 3 winery permits
- 71 County retail malt beverage permits

DISCUSSION: Testimony was provided by representatives from the Wyoming Association of Municipalities that a question exists among many of their membership on whether local government has the authority to suspend or revoke liquor licenses. Some municipalities have received legal counsel that unless the authority is clearly specified and provided for in state statutes that they do not. This is causing considerable consternation among some community leaders in that they have been given the responsibility to provide these licenses by the state but have not been granted the authority to ensure that license owners in their communities conduct business in a responsible manner.

Although there was a general consensus among the Review Group that the overwhelming majority of liquor license owners in Wyoming conduct business in a responsible manner, there was also an acknowledgement that this is not true for all liquor license owners in the state. Testimony was provided about a number of examples where establishments consistently failed compliance checks and sold alcohol to minors or where the overconsumption by their patrons were causing serious public safety or law enforcement concerns in their community. Elected community leaders expressed the need to have the authority to be able to deal with these situations as they occur – and not have to wait until license renewal time.

²¹ Liquor Division – Wyoming Department of Revenue

Licensing (continued)

Testimony was provided by law enforcement executives that the review process for liquor license renewals are not being handled in a consistent or effective manner by communities across the state. Most reviews have simply become a “rubber stamp” process where the licenses are renewed without serious consideration for the public health or safety concerns involved. There is consensus belief that this was occurring due to the lack of clear guidance from the state on “how” and “when” it would be appropriate to take such action.

Some communities, like Gillette, have developed their own protocol and are instituting the process through local ordinance. There was overwhelming agreement among the group for the need for a model protocol, process and set of guidelines that would assist community leaders in making decisions that would be in the best interest of the public health and safety - while still affording the liquor license owners appropriate due process protections. It was felt that this could be accomplished through a collaborative effort involving representatives from the Wyoming Liquor Division, the Wyoming State Liquor Association and community leaders.

RECOMMENDATIONS:

1. Provide specific language in state statute to grant local governments the authority to suspend or revoke liquor license for cause.
2. Direct the Wyoming Liquor Division to develop a Model Policy, Protocol, Process and Guidelines to assist local government in reviewing the actions of liquor licensees for renewal, suspension or revocation purposes.
3. Institute the developed Model Protocol/Process through statute or regulation.

Enforcement of Liquor Laws

OVERVIEW: The responsibility for enforcing Wyoming’s liquor laws is shared between local law enforcement and the Wyoming Department of Revenue - Liquor Division. As a general rule, the Liquor Division focuses its efforts on enforcing the requirements, restrictions and regulations pertaining to the operation of liquor licensees: hours of operation; restrictions or prohibitions pertaining to dispensing rooms; prohibitions against industry representative furnishing money, products or equipment to licensee employees; payment of sales taxes; storage issues; advertising; and maintenance of records.

Local law enforcement typically conduct compliance checks of liquor retail establishments periodically, conduct bar “walk-throughs” on occasion and respond to an assortment of alcohol-related calls initiated by the general public, bar owners, managers, employees or patrons.

Enforcement (continued)

DISCUSSION: The current division of enforcement responsibilities between state and local enforcement appears to work well in most circumstances. Generally, all were in agreement to limit the State’s involvement in local law enforcement issues; however, there was a concern expressed that occasionally there are instances where community leaders may not have the will or courage to “get tough” on certain licensees who may be friends or who have political influence and who are violating liquor laws. Under those circumstances, it would be in the best interest of the public, and those communities, for the State to become involved in local enforcement and remediation.

Although it was agreed that the compliance checks should and can best be handled by local law enforcement, the Review Group was also concerned that not all communities have elected to conduct them. Conducting compliance checks is a best-practice that has been proven effective in limiting access of alcohol to youth. The Review Group agreed to recommend that the Liquor Division be provided the funding necessary and be given the “blessing” to conduct compliance checks in communities where they are not conducted.

RECOMMENDATIONS:

1. The current practice of dividing enforcement responsibilities between local and state government appears to work well in most circumstances and should continue. As a general rule, it is best that the State not become involved in local enforcement issues.
2. Under special circumstances, it would be appropriate and preferable for the State to initiate enforcement and remediation actions. An acceptable protocol and process for these occurrences should be developed and approved by a joint effort involving individuals representing licensees, and local and state government.
3. The Liquor Division should be directed to conduct compliance checks in communities that do not do so. Administrative support and funding should be provided to adequately support this effort.

Compliance Checks

OVERVIEW: Wyoming’s law pertaining to compliance checks (12-6-103) directs that the Wyoming Department of Health “*shall develop strategies to coordinate and support local law enforcement efforts in the enforcement of all state statutes relating to the prohibition of the sale of alcohol products to minors.*”

Compliance checks are defined by statute to mean “*an inspection conducted pursuant to the provisions of this section for purposes of education or enforcement of laws prohibiting the sale of alcohol to minors.*” (12-6-103 (d))

Compliance Checks (continued)

Wyoming does not require compliance checks of liquor retail establishments be conducted in all communities. Some local governments, through local ordinances, mandate compliance checks and use the results in the process of reviewing liquor license renewals.

Wyoming law (12-6-103 (c)) authorizes the Wyoming Department of Health “*discretion to work with local agencies and individuals in the coordination of local education, prevention and enforcement efforts that appropriately reflect the needs of the community,*” however, the law is quite specific in terms of the protocol or process to be followed while conducting compliance checks.

Sanctions for selling alcohol to a minor are directed at the person who sell the alcohol to the minor only. Managers, supervisors or licensees are not subject to criminal penalty or administrative sanctions.

DISCUSSION: Conducting compliance checks of liquor retail establishments are a proven and effective deterrent against selling alcohol to minors. Local law enforcement agencies in Wyoming can elect to conduct compliance checks with funding provided by the Wyoming Department of Health through a contract with the Wyoming Association of Sheriffs and Chiefs. The contract requires a 90 percent participation level in communities with 9,000 or more population. Although not required by contract, many smaller communities also elect to conduct compliance checks.

Law enforcement executives provided testimony explaining how Wyoming’s legislation governing compliance checks is unusually specific and detailed when compared to other law enforcement investigative functions. The law also requires certain protocols that are hindering the effectiveness of law enforcement’s compliance checks operations. For example, the “immediate notification” language is being interpreted in some jurisdictions that the notification must take place immediately upon a failure – as opposed to at the conclusion of a compliance checks operation. This essentially forces law enforcement to suspend the operation for that night as the common practice of using a “phone tree” method for notifying all other retail establishments in town essentially negates the effectiveness of continuing any additional compliance checks at that time.

Wyoming law enforcement officers conduct approximately 1000 checks every year. The successful compliance rate for these checks statewide for the last three years are:

- 2005 - 75% 2007 - 81%
- 2006 - 79% 2008 – 74%

The success rate varies from community to community. Although most liquor retailers in the state are responsible business owners and do not intentionally sell to minors, there are liquor establishments that have a history of doing so.

Compliance Checks (continued)

Currently, the sanctions for selling to a minor are directed against the seller or server - not the business establishment, manager or owner.

RECOMMENDATIONS:

1. Delete the immediate notification clause in the prescribed protocol for conducting compliance checks.
2. Sanctions should also be prescribed for the supervisor, manager and/or owner of establishments that fails a compliance check or that have sold to minors. Administrative sanctions are preferred.
3. Repeated failures on compliance checks should result in suspension or revocation of the license. Please see discussion on “Licensing.”

Responsible Server Training

OVERVIEW: In 2003, the Wyoming legislature recognized the value of responsible server training and enacted legislation that required the Liquor Division of the Wyoming Department of Revenue to promulgate rules to establish “an alcohol server training program to train servers to help promote safe and responsible consumption of alcoholic liquor.” (12-2-402 a-d)

The existing legislation controls the curriculum for the training, the certification of training providers and the revocation or suspension of certification of training providers.

Wyoming law does not mandate the training for servers, managers or owners.

DISCUSSION: Responsible beverage service programs are designed to reduce sales to minors and intoxicated adults. A comprehensive training curriculum typically includes three critical components: policy development, manager training and server/seller training. Evaluations of the effectiveness of these training programs (which have focused primarily on preventing intoxication) are mixed but 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).²²

²²Deborah A. Fisher, Pacific Institute for Research and Evaluation, Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices, October 2006.

Server Training (continued)

The IOM/NAS Report is quite specific in regards to this issue. Recommendation 9-4 states: “*States should require all sellers and servers of alcohol to complete state-approved training as a condition of employment.*”²³

Recommendation S1-11 in the Governor’s Substance Abuse and Violent Crime Advisory Board Response to the IOM/NAS Report states: “*Implement mandatory evidence-based alcohol server education for employees of licensed alcohol establishments.*”²⁴

Responsible server training has been available for employees and owners of liquor establishments in Wyoming for approximately ten years. Most, but not all, liquor establishments in Wyoming have taken advantage of the opportunity and consistently make the effort to have their employees trained. Currently, Cheyenne and Torrington mandate the training for servers through local ordinance - Douglas mandates the training for management/owners.

The training during the first five years was provided through grant monies from the Wyoming Department of Transportation – Highway Safety Program and the Wyoming Department of Health – Enforcing Underage Drinking Laws Program, and through a collaborative effort involving law enforcement, the Wyoming Liquor Division and the Wyoming Liquor Retailers Association.

Funds to have the Liquor Division provide the training have been authorized by the Wyoming Legislature since 2003. Records indicate that more than 9,500 persons have been trained since the program has been organized and funded by the Liquor Division. Last year a total of 1,830 employees of 299 establishments received the training. 1764 were trained under the direction of the Wyoming State Liquor Association and the remaining employees were trained by certified trainers from “other” agencies such as the Gillette Police Department.

A quick review of the compliance check records in Wyoming for the last two years appear to validate the value of this training in reducing alcohol sales to minors.

- FY 2006: 1,093 compliance checks – 204 infractions and 185 citations. Of those infractions and citations, only 19 had received training.
- FY 2007: 1,044 compliance checks – 183 infractions and 148 citations. Of those infractions and citations, only 12 had received training.

The Liquor Division has begun the process of developing a training program specifically designed for managers and owners which focuses on policies, procedures and owner/manager responsibilities. This program (Management of Alcohol Policies and

²³ Institute of Medicine, Reducing Underage Drinking: A Collective Responsibility, (2004).

²⁴ Reducing Underage Drinking in Wyoming: A Collective Responsibility (The Wyoming Response to the Institute of Medicine/National Academy of Sciences Report), Governor’s Substance Abuse and Violent Crime Advisory Board, September 2006

Server Training (continued)

Procedures) is similar to other programs that are now being developed and offered in other states. The division's request for \$187,000 to continue the development and to provide the training for owners and managers was denied during the 2008 Budget Session.

STATE COMPARISONS: Responsible beverage service programs have become increasingly popular during the 1990's. At least 15 states, as well as numerous local jurisdictions, have instituted mandated programs or encouraged their adoption by offering strong incentives to retailers (Pratt et al., 1997)²⁵ Research findings have not played a major role in implementing these programs. Most programs focus primarily on server training and ignore policy development and manager training.

RECOMMENDATIONS:

1. Institute mandatory server and owner/manager training statewide - enforced by the Wyoming Department of Revenue Liquor Division. Priority should be given to establishing mandatory owner/manager training.
2. The implementation of rules/regulations and the development of Wyoming-specific curricula should be accomplished with the involvement of members of the Wyoming State Liquor Association.
3. Evaluate and explore the feasibility of delivering training updates/re-certification online.
4. Legislation should provide funding for the Liquor Division to develop the Wyoming-specific responsible server and owner/manager (MAPP) training curricula and to provide the training statewide on a cost-free basis.
5. Any new liquor licenses issued statewide should be contingent on owners and managers having completed a certified owner/manager alcohol policy and procedures training course.

Minimum Age of On-Premises Servers of Alcohol

OVERVIEW: Wyoming law requires that alcohol be sold in licensed, age-restricted rooms. The state gives communities discretion to say whether minors can be allowed in places where alcohol is sold or served. Many communities require patrons to be 21 years of age, although some communities, such as Lovell, do not.

²⁵ Ibid.

Minimum Age (continued)

Wyoming statutes allow 18 year olds to serve alcohol without specifying or restricting where the service can take place – such as in a restaurant or a bar or dispensing area. In 2007, the Wyoming State Liquor Association successfully lobbied the legislature to add language in the Minor in Possession statute (12-6-101 (b) (v)) which provides for a clearer definition of “serving” for the subsection in the law that allows 18 year old minors to possess alcohol pursuant to employment. The language now clearly prohibits 18 – 20 year olds from “mixing or dispensing alcoholic beverages.”

There is a proposal being considered by the City of Cheyenne at the time of this report to modify local ordinance to allow 18 year olds to serve alcohol in the dispensing area of restaurants – a not too uncommon arrangement in newer restaurants. Proponents of the change cite increased convenience and better service for patrons, as well as the current difficulty of hiring 21 year olds in Wyoming’s current “boom” economy.

Municipalities in Wyoming are not consistent in their approach to prescribing the minimum age for servers of alcohol or in specifying where that service can take place. Many have adopted or follow state statutes, wherein 18 year olds can serve alcohol without additional restrictions - other municipalities have restricted the age to 21 years or have restricted 18 year olds from serving in the bar or dispensing areas. Please refer to the attached Local Ordinance Survey spreadsheet which provides specific information by county and municipality. This information was formally requested of and provided by the Wyoming Department of Revenue -Liquor Division and is current as of October 15, 2008.

DISCUSSION: Young people obtain alcohol from a variety of sources. Parties, friends, and adult purchasers are the most frequent sources of alcohol among college students and older adolescents (Harrison et al., 2000; Preusser et al., 1995; Schwartz et al., 1998; Wagenaar et al., 1996), and younger adolescents also often obtain alcohol from family members. The use of friends under 21 and adult strangers as sources for alcohol appears to increase with age while reports of parents or other family members as sources decrease with age.²⁶

There is research that supports the observations of many people involved in enforcing laws prohibiting sales to minors and implementing responsible server training programs that 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.²⁷

Requiring servers and sellers of alcohol to be at least 21 years of age is recommended as a best-practice regulatory strategy to prevent youth access to alcohol by the Pacific

²⁶ Institute of Medicine, Reducing Underage Drinking: A Collective Responsibility, (2004).

²⁷(Forster et al., 1994; Inspector General, 1991; Mosher, 1991; Wagenaar et al., 1993; Wolfson, Wagenaar & Hornseth, 1995) Research referenced in Pacific Institute for Research and Evaluation publication Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices, October 2006

Minimum Age (continued)

Institute for Research and Evaluation.²⁸ Although no controlled evaluations have been conducted on minimum age restrictions to date, the IOM/NAS Report does provide some guidance in this area.

The authors of the NAS report found that policy development and implementation by retail outlets may be an important determinant (and may even be more so than server training) for reducing youth access to alcohol. They cite the following six key elements of successful outlet policies²⁹:

- (1) minimum age of 21 for all servers and sellers;
- (2) staff awareness of legal responsibility;
- (3) staff awareness of outlet policies and consequences for violating those policies;
- (4) identification required for all patrons who appear to be under 30;
- (5) guidelines and training as to what constitutes acceptable and valid identification; and
- (6) retailer-initiated compliance checks and enforcement of consequences for violation of policies.

The IOM/NAS Report does not include a recommendation to establish a minimum age of 21 for all servers and sellers. Additional research and evaluation is needed in this area.

This issue was discussed but never voted on during the scheduled Review Group meetings. An online survey of the Review Group did not generate a sufficient number of responses to formalize a recommendation in this regard. Results are reported below.

STATE COMPARISONS: States impose varying limits on minimum age of employees working commercial alcohol outlets, with many states distinguishing between those who serve alcohol and those who sell or dispense it. Minimum ages vary from 17 to 21 years of age with the large majority designating 18 as the minimum age for either sales or service.

Currently three states require servers be 21 years of age, ten states require servers to be 19 or 20, thirty-six states set the minimum age at 18, and one state allows 17 year old to serve alcohol.

RECOMMENDATION:

1. The State should conduct a controlled evaluation to determine if establishing minimum age restrictions for servers is an effective strategy for reducing youth access to alcohol in Wyoming.

²⁸ Deborah A. Fisher, Pacific Institute for Research and Evaluation, Regulatory Strategies for Preventing Youth Access to Alcohol: Best Practices, October 2006.

²⁹ Institute of Medicine, Reducing Underage Drinking: A Collective Responsibility, (2004).

Minimum Age (continued)

2. Compliance checks in the future should also track and compare the failure rate of 18 to 20 year old servers with the failure rates of servers 21 years old or older.
3. Legislative Review Group Online Survey Results: 14 of 17 would support raising minimum age to 21; 16 of 17 would support limiting 18 year olds from serving in dispensing area; 13 would prefer raising age to 21, 3 would prefer restricting serving area, 1 would oppose both changes.

Sponsorships, Advertising and Sales at Public/Community Family Events

Wyoming has no statewide regulations that restrict or control advertising. This varies from community to community in terms of zoning restrictions; however these restrictions generally apply to size, placement and materials used.

Local governments have the authority to issue special, temporary licenses for alcohol sales at special events such as music concerts, community fairs and celebrations and sporting events.

WSS 12-5-402 prohibits a licensee or permit holder from receiving any donation, money or item of value from Industry representatives.

DISCUSSION: Many local celebrations include alcohol industry sponsorship and advertising. These venues are often advertised as “family events” and include a large number of youth. 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 sponsorship of the event. In exchange for funding, event organizers agree to sell the company’s products and publicize the company’s sponsorship.

It appears that many nonprofit organizations in Wyoming may be in violation of this law; however, several Wyoming Attorney General’s opinions on this issue tend to support a broad interpretation of “selling” – which essentially legitimizes many of the activities that are engaged in by nonprofit organizations.

Several members of the Review Group, as well as individuals providing testimony, attested to the strong market and political forces that often work to oppose regulations or restrictions on sales, advertising or sponsorships at these events. A decision to ban alcohol sales may threaten an alcohol company’s sponsorship of the event. Many politically connected nonprofit organizations are often dependent on alcohol sales at these special events. In addition, alcohol sales are viewed by many special events planners as an integral, lucrative component. These economic and political forces often sway and deter local government officials from imposing the necessary safeguards or restrictions when issuing permits.

Sponsorships (continued)

Many communities, like Riverton for example, are imposing restrictions, conditions or requirements that event planners must agree to in order to receive alcohol license permits for their events. Applications for these permits are reviewed by police department personnel, who then offer recommendations or additional conditions/requirements as part of the approval process. These actions have significantly reduced or eliminated the problems normally associated with underage drinking and overconsumption of alcohol by attendees at these events.

Restricting alcohol sales and alcohol industry sponsorships at youth and family-oriented events are best-practices that have been proven to be effective in preventing youth access to alcohol in other parts of the country.³⁰ The Governor's Substance Abuse and Violent Crime Advisory Board offered a similar recommendation two years ago.³¹

STATE COMPARISONS: Alcohol sales at community events create a high risk for underage drinking and related problems. Other States and local jurisdictions have taken various steps to reduce these risks by: restricting the issuance of licenses at youth-oriented and family events; prohibiting alcohol sales at specific venues popular with young people; restricting sections at special events where young people are not permitted to enter; requiring responsible beverage service management policies and training.

RECOMMENDATIONS:

1. The state should establish guidelines for alcohol sponsorship and alcohol advertising for state-sponsored or state-funded events, especially in venues that include a large number of young people.³²
2. The state should support and encourage local communities to review policies regarding alcohol sponsorship of local events that include a large number of young people.³³

³⁰ Ibid.

³¹ Reducing Underage Drinking in Wyoming: A Collective Responsibility (The Wyoming Response to the Institute of Medicine/National Academy of Sciences Report), Governor's Substance Abuse and Violent Crime Advisory Board, September 2006

³² Recommendation S1-3 in Reducing Underage Drinking in Wyoming: A Collective Responsibility (The Wyoming Response to the Institute of Medicine/National Academy of Sciences Report), Governor's Substance Abuse and Violent Crime Advisory Board, September 2006.

³³ Recommendation S1-4 in Reducing Underage Drinking in Wyoming: A Collective Responsibility (The Wyoming Response to the Institute of Medicine/National Academy of Sciences Report), Governor's Substance Abuse and Violent Crime Advisory Board, September 2006.

Sales to Intoxicated Persons/Happy Hours and Special Drink Promotions

OVERVIEW: Wyoming laws do not generally prohibit the sale and service of alcohol to intoxicated persons; however there is a reference to this issue in the statute that regulates the operation of drive-up windows.

Article 3, entitled Drive-in Areas, Subsection (v) of WSS 12-5-301 states: “*No order shall be received from nor a delivery made to a person under twenty-one (21) years of age or an intoxicated person in the area;*”

WSS 12-5-502 addresses service to underage, incompetent or drunkards – but requires written notice.

Wyoming does not prohibit or regulate liquor sales practices and promotions that tend to promote overconsumption.

DISCUSSION: Overconsumption of alcohol is linked to serious alcohol-related problems, including traffic crashes and fatalities, violence, injury and alcohol-related disease. Existing research strongly suggests that laws that restrict sales to intoxicated patrons and “happy hours” and similar promotions can reduce alcohol-related harm if they are adequately enforced.³⁴

The number of arrests for public intoxication and driving under the influence, as well as the high percentage of alcohol-involved arrests provide a statistical picture of the amount of binge drinking and overconsumption of alcohol that is occurring in communities in Wyoming. The average blood alcohol content of persons who have been arrested for public intoxication (0.236)³⁵ and driving under the influence (0.158)³⁶ provide proof that these arrests were not the result of having just “one” too many.

77.8% of Wyoming residents view alcohol abuse as a serious or somewhat serious problem and 89.4% would support a state law that would prohibit selling or serving alcohol to someone who is obviously intoxicated.³⁷

The Review Group also discussed numerous examples of drink and sales promotions that are currently in practice in some communities in Wyoming. These practices appear to occur more frequently in Laramie where the sales promotions are specifically designed to attract University of Wyoming students - and which often tend to result in episodes of binge or excessive drinking.

³⁴ National Highway Traffic Safety Administration, - Research Report, Preventing Over-consumption of Alcohol – Sales to the Intoxicated and “Happy Hour” (Drink Special) Laws, February 2005.

³⁵ Wyoming Association of Sheriffs and Chiefs of Police, Evaluation of Alcohol Factors in Custodial Arrests in the State of Wyoming – 2008.

³⁶ Ibid.

³⁷ Wyoming Survey and Analysis Center – University of Wyoming, Wyoming Alcohol Use Issues Survey, October 2006.

Sales to Intoxicated Persons (continued)

The research available strongly suggests that: (a) there is an association between serving practices and the overconsumption of alcohol, and (b) intervention in support of improved serving practices and the enforcement of laws governing these practices is associated with a decrease in alcohol-related harm.³⁸

STATE COMPARISONS:

Sales to intoxicated persons: As of January 1, 2003, 47 states have laws prohibiting sales and service of alcohol to intoxicated persons. Florida, Nevada and Wyoming do not.

State provisions vary in terms of language used to describe the state of intoxication (e.g. obviously intoxicated; visibly intoxicated, appears to be intoxicated; noticeably intoxicated; reason to believe is intoxicated; apparently under the influence of liquor) and in describing the provision of alcohol (e.g. serving, selling, furnishing, giving, bartering, exchanging, providing, delivering and procuring). The level of proof required varies significantly from state to state and appears to often be a “sticking point” in enforcement and prosecution.

States vary widely in the range and severity of administrative penalties imposed for violations of sales to intoxicated laws. Most states increase the severity of the punishment as the number of offenses that are committed increase. The suspension of a license is included as a potential maximum penalty for a first-time offense in 36 states.

License revocation is the only allowable penalty for a licensee convicted of a fourth violation of sales to intoxicated laws in 7 states. In at least 10 states, fines can be paid in lieu of license suspension, primarily for first offenses only. Please refer to Appendix section for an expanded chart of penalties imposed for violations of sales to intoxicated laws.

Happy hours and special drink promotions: As of January 1, 2003, 27 states had provisions expressly prohibiting excessive drinking practices, or “happy hour” types of promotions. The drinking practices referred to in these statutes include:

- free beverages – 10 states have happy hour provisions that contain specific prohibitions against the distribution of free alcoholic beverages
- additional servings – 16 states prohibit an establishment from providing additional servings of alcoholic beverages until previous servings have been consumed
- reduced price (specified day or time) – 18 states prohibit the sale of alcoholic beverages at reduced prices during specified days or times

³⁸National Highway Traffic Safety Administration - Research Report, Preventing Over-consumption of Alcohol – Sales to the Intoxicated and “Happy Hour” (Drink Special) Laws, February 2005.

Sales to Intoxicated Persons (continued)

- unlimited beverages (fixed price, fixed time) – 23 states prohibit the sale of alcoholic beverages during a fixed period of time for a fixed price – “all you can drink” specials
- increased volume – 12 states prohibit increasing the volume of alcoholic beverages in a drink without increasing the price
- prizes – 15 states have happy hour provisions that contain specific prohibition against giving alcoholic beverages as prizes

France recently prohibited “happy hours” and similar drink promotions nationwide due to a whole host of problems caused by overconsumption of alcohol. The law in Texas³⁹ is considered to be effective “model legislation” in this regard as it includes eleven sales practices that are specifically prohibited. Please refer to Appendix section for a listing of states which prohibit certain drink promotion and practices.

RECOMMENDATIONS:

1. Enact legislation that would prohibit the sale of alcohol to intoxicated persons.
2. Enact legislation that would prohibit liquor sales and drink specials that tend to promote excessive drinking. The Texas state statute which prohibits or restricts specific on-premises promotions could serve as a guide and starting point for Wyoming.

Excise Taxes on Alcohol

OVERVIEW: Wyoming is one of 19 control states nationwide and thus holds a monopoly for the sale of spirits and wine. As a control state, Wyoming controls wholesale pricing of wine and spirits, so price is inclusive of amount otherwise collected as tax. The current taxes on alcoholic beverages in Wyoming are:

- Beer - \$0.005 per liter (\$.02 per gallon/\$.000156 per 12 oz. Can)
- Spirits - \$0.025 per 100 milliliters (\$2.25 per case/\$.187 per bottle)
- Wine - \$0.0075 per 100 milliliters (\$.68 per case/\$.056 per bottle)

The current tax rate was established in 1935 and has remained unchanged to date. This number is not indexed for inflation.

³⁹ Texas Statute 45-103 On-Premises Promotions.

Excise Taxes (continued)

In addition to the excise taxes collected on spirits and wine, there is a 17.6% mark-up added by the Wyoming Department of Revenue – Liquor Division, of which approximately 80% (about \$7.4 million) goes back into the State’s General Fund.

DISCUSSION: Alcoholic beverages are far cheaper (after adjusting for overall inflation) today than they were in the 1960’s and 1970’s. While raising excise taxes, and therefore prices, would have some effect on alcohol use by adults, price has been documented to have a differential effect on youth alcohol consumption patterns. Taxes can also be a source of revenue for funding strategies aimed at reducing underage drinking and its associated harms.⁴⁰

In September of 2003, the Institute of Medicine/National Academy of Sciences issued its report, Reducing Underage Drinking: A Collective Responsibility. Among many recommendations, the report promoted the public health and safety benefits of raising state and federal taxes on alcoholic beverages, especially beer. National Recommendation N 12-7 in the report states:

Congress and state legislatures should raise excise taxes to reduce underage consumption and to raise additional revenues for this purpose. Top priority should be given to raising beer taxes. Excise tax rates for all alcoholic beverages should be indexed to the consumer price index to keep pace with inflation without the necessity of further legislation.”

In September 2006, the Governor’s Substance Abuse and Violent Crime Advisory Board issued the Wyoming Response to the Institute of Medicine/National Academy of Sciences Report in which it made the following two recommendations:

Recommendation S1-57: Wyoming should substantially increase the current level of taxation on all alcohol products, and use the resulting revenue for funding best-practice strategies to reduce underage drinking. Top priority should be given to raising beer taxes.

Recommendation S1-58: Communities should be given the ability to levy taxes on all alcohol products at the local level as a revenue enhancement tool for funding best-practices strategies to reduce underage drinking.

There is considerable research evidence to support these recommendations:

- Alcohol is a factor in the four leading causes of death among persons ages 10 to 24: (1) motor-vehicle crashes, (2) unintentional injuries, (3) homicide and (4) suicide.⁴¹

⁴⁰ Institute of Medicine/National Academies of Sciences, Reducing Underage Drinking: A Collective Responsibility, 2004.

Excise Taxes (continued)

- For college students, lower beer prices are related to higher incidences of troublemaking with police and other authorities, property damage, getting into an argument or a fight, and taking advantage of or being taken advantage of sexually.⁴²
- Young adults are more responsive to price increases than adults.⁴³
- Beer prices inversely correlate with youths' decisions to drink.⁴⁴
- College students are less likely to transition from abstainers to moderate drinkers or from moderate drinkers to heavy drinkers if alcohol prices are high.⁴⁵
- 76.1% of Wyoming residents support an alcohol tax increase if the monies were to pay for drug and alcohol prevention and treatment.⁴⁶

Beer accounts for 67 percent of the alcohol consumption reported in the United States.⁴⁷ Beer consumed by the highest 10 percentile of drinkers by volume represents 42 percent of the reported alcohol consumed in the United States.⁴⁸

In order to put the Wyoming beer tax rate into better perspective, it should be noted that the excise tax on 533.3 six-packs of beer in Wyoming equals the excise tax on ONE carton of cigarettes.

Although there was unanimous agreement among members of the Review Group that communities need financial help to deal with the problems associated with underage drinking and binge drinking by adults, there was no consensus as to the best way to do so. Earmarking an increase in alcohol taxes was discussed, as was the legislature appropriating a portion of the "profits" already collected by the Liquor Division in order to provide those funds to local communities.

Another possibility (which was attempted but failed to be introduced during the last legislative session) is a state statute that would give the local communities the authority to tax alcohol sales should the local residents elect to do so. Testimony was provided regarding the difficulties and problems that would be encountered in implementing and administering this option should it become law.

⁴¹ Grunbaum, J., Kann, L., Kinchen, S.A., Williams, B.I., Ross, J.G., Lowry, R., & Kolbe, L.J. Youth Risk Behavior Surveillance – United States, 2001. In: *Surveillance Summaries*, June 28, 2002.

⁴² Grossman, M. & Markowitz, S. (2000). *Alcohol regulation and violence on college campuses*. Research Report. National Bureau of Economic Research. January 2000.

⁴³ Chaloupka, F.J., Grossman, M. & Saffer, H., (2002). The effects of price on alcohol consumption and alcohol-related problems. *Alcohol Research & Health*. 26(1):22-34.

⁴⁴ Cook, P.J. & Moore, M.J., (2002). The economics of alcohol abuse and alcohol-control policies. *Health Affairs*. 21(2):120-133.

⁴⁵ Williams, J., Chaloupka, F. & Wechsler, H. (2002). *Are there differential effects of price and policy on college students' drinking intensity?* ImpacTeen, Research Paper Series, No. 16. January 2002.

⁴⁶ Wyoming Survey and Analysis Center – University of Wyoming, Wyoming Alcohol Use Issues Survey, October 2006.

⁴⁷ Rogers, J.D., & Greenfield, T.K. (1999) *Beer drinking accounts for most hazardous alcohol consumption reported in the United States*. *Journal of Studies on Alcohol*, 60(6).

⁴⁸ *Ibid.*

Excise Taxes (continued)

STATE COMPARISONS: States have taken differing degrees of control over various aspects of their liquor distribution system. Some states monopolize the retail sale (for off-premise consumption) and wholesale sale (including sales to outlets licensed to sell for on-premise consumption) of some alcoholic beverages (most often distilled spirits and, in some states, wine), while other states employ a license system.

Currently, eighteen states retain some monopoly power – Three states exert control over wholesale and retail sales of table wine, spirits, and other moderate-to-high alcohol content beverages (New Hampshire, Pennsylvania, and Utah).

Eight states control wholesale and retail sales of high-alcohol content beverages only (Idaho, Michigan, Montana, North Carolina, Ohio, Oregon, Vermont, and Washington).

Wyoming is one of seven states which exert control in wholesale markets only (Alabama, Iowa, Maine, Mississippi, Virginia, West Virginia, and Wyoming) (AEP, 2000).

Wyoming has the lowest beer tax in the United States. The state with the highest beer tax is Alaska - \$1.07 per gallon. The national average is \$.26.

Please refer to the Attachments Section for detailed information regarding the sales, gasoline, cigarette, spirits, wine and beer tax rates for each state. The information provided is correct as of January 1, 2008.

Twenty-four States earmark revenues from alcohol taxes - Wyoming does not.

Sixteen States allow local jurisdictions to collect additional alcohol taxes – Wyoming does not.

RECOMMENDATIONS:

1. Wyoming should substantially increase the current level of taxation on all alcohol products and use the resulting revenue for funding best-practices to reduce underage drinking and binge drinking by adults.
2. Top priority should be given to raising beer taxes.
3. Taxes on all alcohol products should be raised to equal the national average.
4. The State should devise an efficient, effective mechanism for collecting and administering the increased revenue from alcohol taxes and devise an equitable/efficient system for providing local governments the revenues for funding best-practice strategies to reduce underage and binge drinking in their communities.

SANCTIONS/PENALTIES

Assessing the appropriateness and effectiveness of the sentencing options currently prescribed for violations of law relating to underage and binge drinking in Wyoming was a critical component of the review process. However, this is an incredibly complex issue that does not lend itself to easy or simple assessment or solutions. Countless amounts of time and money have been expended over the years studying Wyoming's Juvenile Justice System and exploring ways to "make it better."

Instead, this report will offer some observations that were drawn from the discussions, information and testimony provided by individuals in Wyoming who are involved in the adjudication and intervention process on a day-to-day basis. Identifying the problems or challenges that exist today was easy - finding effective, affordable and practical solutions for the future is not.

Observations worthy of note:

- There is a lack of consistency in sentencing among the various courts in Wyoming – and often even within the same communities
- In many jurisdictions, the penalty/fines that are being assessed are considered by youth and parents to be a "joke" – and are often thought of as "bragging rights"
- What is valued by youth is their driver's license – sanctions which would include a suspension of driving privileges would be an effective deterrent
- Judges should be afforded discretion in tailoring penalties to individual situations – which must include the option of sentencing youth to jail
- Courts are often not able to access "other" prior arrest or court disposition records for sentencing purposes
- As a general rule, most intervention programs in use in Wyoming communities have not been very effective due to lack of attention, time or resources
- Diversion programs that have been well designed, implemented and funded appear to show the greatest promise and success; however, many communities simply do not have the capacity or resources necessary

The current challenges that exist in the adjudication process for juveniles in Wyoming include a fairly complex arrangement of concurrent and exclusive jurisdiction involving the District/Juvenile Courts, the Circuit Courts and Municipal courts. A recent study commissioned for Laramie County, the City of Cheyenne and Wyoming Department of Family Services accurately identified the following failures and challenges that most communities across the state are facing today:⁴⁹

⁴⁹ Martin, Mark, Justice Solutions Group, Preliminary Report – Laramie County, Wyoming Juvenile Detention Needs Assessment, March 2008.

Sanctions/Penalties (continued)

- Uniformity of Treatment – ensuring that juveniles who come before each court with similar fact patterns are treated in similar fashion
- Information Sharing – ensuring that each court at the outset of a juvenile action has the benefit of background information and records available to other courts regarding alleged juvenile offender histories, as well as social, family and other relevant information
- Integrated Service Delivery System – developing a delivery system within the county to limit duplication of services and to increase efficiency and effectiveness
- Effective Monitoring of Juveniles – ability to monitor and track juvenile involvement in the justice system

Law enforcement has limited options when dealing with an alleged juvenile offender. The officer may cite and release or arrest and take the juvenile into custody. The use of citations is the preferred course of action in most situations - and this course of action is usually encouraged by agency policy. However, in some situations where the public or youth's safety may be at risk, officers have no option except to arrest and detain (many situations which often involve alcohol). Law enforcement officers are often required to expend a tremendous amount of "downtime" while they attempt to contact parents and to supervise the juvenile while arrangements are being made for the youth's return home or placement in an appropriate detention setting – which are often not readily available in every community.

The State of Wyoming currently expends an inordinate amount of General Fund Monies incarcerating and placing youth in high-end residential placements without the use of assessment screenings. This practice expends resources without any differentiation or valid rationale for most placements. The Department of Family Services alone spends thirty-two million dollars a year – in addition to the costs incurred for incarceration. A front-end screening process would seem to be a logical approach for avoiding unnecessary placements and to help identify the need for specific services.

Testimony was provided by the administrator for the Department of Family Services and the Governor's policy analyst for juvenile justice relating to the State of the State in regards to some of the issues involved. Information regarding the Community Juvenile Services Bill which was sponsored by the Joint Judiciary Interim Committee and which passed in spring of 2008 appears to begin to address some of the concerns and challenges facing the state.

The creation of Community Juvenile Services Boards, the direction towards Pre-trial Diversion Programs and Graduated Sanctions (and which are provided for as part of the legislation) were well received by the Review Group and viewed as much-needed steps in the right direction.

Sanctions/Penalties (continued)

The Review Group also endorsed the core elements in the bill which specifies:

- Central Intake – or a single point of entry for juveniles into the system
- Comprehensive Assessment of youth through single point of entry
- Development/adoption of Criteria for:
 - Juvenile diversion
 - Short-term detention
 - Longer-term care services
 - Standards for assessments
 - Admissions
 - Twenty-four hour intakes
 - Pre-dispositional detentions
 - Shelter care standards
- Development of a continuum of non-secure services, to include:
 - Early intervention
 - Diversion
 - Community service
 - Other sanctions which may include citations, counseling, parenting education, day treatment and aftercare following twenty-four hour placements
- Identifying other funding sources for local juvenile services

Although concerns and questions were raised regarding “how” and “when” the various measures in this bill were to take place, it was generally accepted that this was a “work in progress” and that it would take some time to put into operation and to work through all the implementation issues. The biggest concern was in regards to how communities were going to be able to fund these efforts on a continuing basis.

It appears that that a few communities would be able to receive grant monies to implement pilot programs and to begin the process. Two major concerns or questions remain unresolved: “What about the other communities that may want to begin the process but are not selected for the pilot phase?” and “Where are the funds going to come from to provide the much-needed services on a continuing basis?” The increased revenue that could potentially be generated by an increase in the excise taxes on alcohol seems to be a logical source.

ACKNOWLEDGEMENTS

The Wyoming Prevention Framework Communities are to be commended for initiating this review of alcohol state statutes with the expressed purpose of reducing underage and binge drinking in Wyoming. This was an ambitious undertaking, given the broad depth of issues that needed to be reviewed, researched and discussed.

The review process was not easy, nor was it quick. The members of the Legislative Review Group are to be commended for their active and continued participation throughout the entire ten-month review period. The process was tedious, but necessarily so. To their credit, their enthusiasm never waned, nor did they avoid the controversial or tough issues. They did not always agree – which also provided for a more balanced and complete inquiry.

Special recognition and thanks to all the individuals who provided testimony when requested. Their willingness to share their knowledge, expertise and experience on the various issues under consideration was an invaluable and essential part of the review process. Reviewing the research, statistics and comparing Wyoming statutes on a national and regional basis were important, but it was their individual and collective testimony that helped to provide a more realistic and Wyoming perspective to the issues under consideration.

Additionally, a special thanks to: Senator Jim Anderson, Wyoming Legislature, for his participation and his willingness to share his experience and perspective on the legislative process; Tom Montoya, chief of enforcement for the Liquor Division – Wyoming Department of Revenue, for his testimony and quick response to a variety of requests for statistics and information; Mike Moser, Executive Director of the Wyoming State Liquor Association, for his testimony and genuine willingness to participate and provide a balanced perspective to the process; and Mary Flanderka, Administrator of the Mental Health and Substance Abuse Services Division – Wyoming Department of Health, for her staff's committed support and assistance throughout the review process.

This review process was truly a collaborative effort by group of dedicated professionals who represented a wide range of disciplines and agencies/entities – and who did so in the best interests of the people of Wyoming.

Project research/recorder/summaries: Mary Brown, Johnson and Associates
Project research/recorder/summaries: Rena Delbridge, Johnson and Associates
Project research/facilitator/report: Ernest L. Johnson, Johnson and Associates

LEGISLATIVE REVIEW GROUP

Prevention Framework Communities

Tracy Young	Albany County	Albany County Resource Center
Karen Sylvester	Big Horn County	YES I CAN
Charlotte Carr	Campbell County	Campbell County Prevention Advisory Council
Theresa Pacheco	Carbon County	Carbon County Counseling Center
David Dingman	Carbon County	Carbon County Counseling Center
Sally Patton	Carbon County	Carbon County Counseling Center
Jane Osborne	Converse County	Douglas High School
Dominique Tigert	Crook County	Crook County Cares
Tauna Richardson	Fremont County	Fremont Counseling Service
Danielle Wondercheck	Goshen County	Comprehensive Community Coalition
Jane Norskog	Hot Springs County	Hot Springs County Counseling Service
Rosi Davidson	Johnson County	Community Resource Center of Johnson County
Bill Hawley	Johnson County	Community Resource Center of Johnson County
Arlene Lyons	Laramie County	Laramie County Community Partnership
Rod Hottle	Laramie County	Laramie County Community Partnership
Carl J Harris	Lincoln County	High Country Counseling & Resource Center
Melissa Stahley-Cummins	Natrona County	Natrona County Prevention Coalition
Jennifer Crank	Natrona County	Natrona County Prevention Coalition
Tere Bragg	Natrona County	Natrona County Prevention Coalition
Ray Pacheco	Natrona County	Natrona County Prevention Coalition
Bob Shinmori	Niobrara County	Solutions for LiFe
Jay Otto	Park County	West Park Hospital District
Krista West	Platte County	Peak Wellness Center
Chanda Richards	Sheridan County	Sheridan Community Education Foundation
Catherine Paullin	Sheridan County	Sheridan Community Education Foundation
Robena Downie	Sublette County	High Country Counseling & Resource Center
Katie Monroe	Sweetwater County	Southwest Counseling Service
Stacey Caesar	Teton County	Curran Seeley
Tera Lawlar	Uinta County	Uinta County
Marilyn Braaten	Washakie County	Cloud Peak Counseling Center
Kristi Lipp	Weston County	Northern Wyoming Mental Health Center
Anna Waser	Weston County	Northern Wyoming Mental Health Center
Connie Robinson	Wind River Reservation	Eastern Shoshone Recovery Program

Legislature

Jim Anderson	Senator	Converse/Platte Counties
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Municipalities/Counties

Cliff Main	Councilman	City of Cody
George Parks	Executive Director	Wyoming Association of Municipalities
Joe Evans	Executive Director	Wyoming Association of County Commissioners

Judiciary

Fred Dollison	Circuit Court Judge	Crook/Weston Counties
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Schools

Matt Caires	Assistant Dean of Students	University of Wyoming
George Kopf	Principal	Chugwater Schools
Marilyn Cotant	Dean of Students	Eastern Wyoming Community College

ATTACHMENT “A”

LEGISLATIVE REVIEW GROUP
(Continued)

Law Enforcement

Rich Adriaens	Chief of Police	Gillette
Mitch Allmaras	Chief of Police	Evanston
Lori Emmert	Chief of Police	Douglas
Tim Feathers	Chief of Police	Powell
Jonlee Anderle	Sergeant	Laramie Police Department
Shane Johnson	Sheriff	Lincoln County
Byron Oedekoven	Executive Director	Wyoming Assn. of Sheriffs and Chiefs of Police

Prosecutors

Brett Johnson	County Attorney	Sweetwater County
John Prokos	Chief Deputy County Attorney	Sweetwater County

Juvenile Probation

Ada Fowler	Agent	Carbon County
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Domestic Violence

Suzan Pauling	Public Policy Director	Wyoming Coalition Against Domestic Violence
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Liquor Division – Wyoming Department of Revenue

Tom Montoya	Chief of Enforcement	Wyoming Department of Revenue - Liquor Division
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Department of Family Services

Paul Fritzler	Manager	Natrona County
Chris Smith	Agent	Juvenile Services

Department of Health

Mary Flanderka	Administrator	MHSASD
Marilyn Patton	Community Services Coordinator	
Keith Hotle	Program Manager, Prevention Framework Communities	
Erica Mathews	Youth Services, Wyoming First Lady’s Initiative	
Leslie Allmaras	Wyoming State Hospital	

At-Large Representatives

Byron Rookstool	Advocate	Cheyenne
Toni Reichenbach	Wyoming Representative	MADD

ATTACHMENT “A”

TESTIMONY/PRESENTATIONS

Rich Adriaens	Chief of Police	Gillette
Jon Anderle	Sergeant	Laramie Police Department
Mike Bloniigan	District Attorney	Natrona County
Vince Case	Circuit Court Judge	Converse County
Fred Dollison	Circuit Court Judge	Crook County
Lori Emmert	Chief of Police	Douglas
Tim Feathers	Chief of Police	Powell
Mary Flanderka	Administrator	MH&SASD-WDH
Gary Hartman	Policy Advisor	Governors Office
Mike Huber	Circuit Court Judge	Natrona County
Ron Jeffries	Municipal Judge	Cheyenne
Tony Lewis	Administrator	Department of Family Services
Lee Martinez	Councilman	Riverton City Council
Tom Montoya	Chief of Enforcement	Liquor Division-WDR
Mike Moser	Executive Director	Wyoming State Liquor Association
Byron Oedekoven	Executive Director	WASCOP
Dwane Pacheco	Commander	Rock Springs Police Department
Tom Pagel	Chief of Police	Casper
George Parks	Executive Director	Wyoming Association of Municipalities
Byron Rookstool	Citizen at large	Cheyenne
Ed Schmidt	Director	Wyoming Department of Revenue
John Snell	Chief of Police	Riverton
Mark Stone	Captain	Riverton Police Department
Bill Westerfield	Chief Enforcement Officer	Wyoming State Parks
Peggy Wiley	Director	Solutions for LiFe

ATTACHMENT “B”



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MEMO

TO: Ernie Johnson
FROM: Tom Montoya
SUBJECT: Licensing Authority Survey on serving of alcoholic beverages
DATE: October 15, 2008

In completing the attached survey the compliance staff of the Liquor Division first looked at the Wyoming Association of Municipalities website to review the posted municipal ordinances. After reviewing many of the ordinances it was determined that many of the ordinances appeared to be outdated or at a minimum confusing. We therefore decided to contact each and every municipality and discuss our needs with the proper authority and get their interpretation of their own ordinances in other words get the information from the horse's mouth. We asked three simple questions in our small survey:

1. Did the town adopt or at least follow state statute for their alcohol beverage control law?
2. Did their municipal ordinance allow 18 to 20 year olds to serve in an unlicensed room?
3. Do they have a 21 year old ordinance that would have to be modified to allow 18 to 21 year olds to serve in a licensed room?

The data can be found on the attached Xcel spreadsheet. Note: County licensing authorities were not contacted since counties are considered a political subdivision of the state and therefore follow state law. My thanks to Senior Agent Tim Mangum and Agent Kelly Hunt for their help with this project.

Results: 51 municipalities prohibit 18-20 year olds from serving alcoholic beverages in a non-licensed room. 34 municipalities and 23 counties allow 18-20 year olds to serve alcoholic beverages in a non-licensed room. There were 12 no response and one municipality (Rawlins) allows 19-20 year olds to serve alcoholic beverages in a non-licensed room. All but 14 municipalities (with 12 no responses) have adopted state statute. 63 municipalities have a 21 ordinance. This was asked because these 21 ordinances would have to be revised to allow 18-20 year olds to serve in a licensed room. 22 municipalities do not have a 21 ordinance (12 no response) and Buffalo has a 19 year old ordinance to enter or remain in a licensed room.

Local Ordinance Survey

County #	Lic Auth #	Authority Name	Adopt State Statute	18 Serve in Non-regulated	21 Ordinance
1	1	NATRONA COUNTY CLERK	Yes	Yes	No
2	2	LARAMIE COUNTY CLERK	Yes	Yes	No
3	3	SHERIDAN COUNTY CLERK	Yes	Yes	No
4	4	CLERK	Yes	Yes	No
5	5	ALBANY COUNTY CLERK	Yes	Yes	No
6	6	CARBON COUNTY CLERK	Yes	Yes	No
7	7	GOSHEN COUNTY CLERK	Yes	Yes	No
8	8	PLATTE COUNTY CLERK	Yes	Yes	No
9	9	BIG HORN COUNTY CLERK	Yes	Yes	No
10	10	FREMONT COUNTY CLERK	Yes	Yes	No
11	11	PARK COUNTY CLERK	Yes	Yes	No
12	12	LINCOLN COUNTY CLERK	Yes	Yes	No
13	13	CONVERSE COUNTY CLERK	Yes	Yes	No
14	14	NIOBRARA COUNTY CLERK	Yes	Yes	No
15	15	HOT SPRINGS COUNTY CLERK	Yes	Yes	No
16	16	JOHNSON COUNTY CLERK	Yes	Yes	No
17	17	CAMPBELL COUNTY CLERK	Yes	Yes	No
18	18	CROOK COUNTY CLERK	Yes	Yes	No
19	19	UINTA COUNTY CLERK	Yes	Yes	No
20	20	WASHAKIE COUNTY CLERK	Yes	Yes	No
21	21	WESTON COUNTY CLERK	Yes	Yes	No
22	22	TETON COUNTY CLERK	Yes	Yes	No
23	23	SUBLETTE COUNTY CLERK	Yes	Yes	No
1	101	BAR NUNN TOWN CLERK	Yes	No	Yes
1	102	CASPER CITY CLERK	Yes	Yes	Yes
1	103	EDGERTON TOWN CLERK	Yes	No	Yes
1	104	EVANSVILLE TOWN CLERK	Yes	No	Yes
1	105	MIDWEST TOWN CLERK	Yes	No	Yes
1	106	MILLS TOWN CLERK	Yes	No	Yes
2	201	ALBIN TOWN CLERK	Yes	No	Yes
2	202	BURNS TOWN CLERK			
2	203	CHEYENNE CITY CLERK	Yes	Yes	Yes
2	204	PINE BLUFFS TOWN CLERK	Yes	Yes	No
3	301	CLEARMONT TOWN CLERK			
3	302	DAYTON TOWN CLERK	No	No	Yes
3	303	RANCHESTER TOWN CLERK	Yes	Yes	No
3	304	SHERIDAN CITY CLERK	Yes	No	Yes
4	401	BAIROIL TOWN CLERK			
4	402	GRANGER TOWN CLERK	Yes	No	Yes
4	403	GREEN RIVER CITY CLERK	Yes	Yes	No
4	404	ROCK SPRINGS CITY CLERK	Yes	Yes	No
4	405	SUPERIOR TOWN CLERK			
4	406	WAMSUTTER TOWN CLERK	Yes	No	Yes
5	501	LARAMIE CITY CLERK	Yes	Yes	Yes
5	502	ROCK RIVER TOWN CLERK	No	No	No
6	601	BAGGS TOWN CLERK	No	No	Yes
6	602	DIXON TOWN CLERK	Yes	No	Yes
6	603	ELK MOUNTAIN TOWN CLERK	Yes	Yes	No
6	604	ENCAMPMENT TOWN CLERK	Yes	No	Yes
6	605	HANNA TOWN CLERK	Yes		
6	606	MEDICINE BOW TOWN CLERK	No	No	Yes

Local Ordinance Survey

County #	Lic Auth #	Authority Name	Adopt State Statute	18 Serve in Non-regulated	21 Ordinance
6	607	RAWLINS CITY CLERK	Yes	19	Yes
6	608	RIVERSIDE TOWN CLERK	Yes	No	Yes
6	609	SARATOGA TOWN CLERK	Yes	No	Yes
6	610	SINCLAIR TOWN CLERK	No	No	Yes
7	701	FORT LARAMIE TOWN CLERK	Yes	No	Yes
7	702	LAGRANGE TOWN CLERK	Yes	Yes	Yes
7	703	LINGLE TOWN CLERK	Yes	No	No
7	704	TORRINGTON CITY CLERK	Yes	No	Yes
7	705	YODER TOWN CLERK			
8	801	CHUGWATER TOWN CLERK	Yes	No	No
8	802	GLENDO TOWN CLERK	Yes	No	Yes
8	803	GUERNSEY TOWN CLERK	No	No	Yes
8	804	HARTVILLE TOWN CLERK			
8	805	WHEATLAND CITY CLERK	Yes	No	Yes
9	901	BASIN TOWN CLERK	Yes	No	Yes
9	902	BURLINGTON TOWN CLERK	Yes	Yes	No
9	903	BYRON TOWN CLERK	No	Yes	No
9	904	COWLEY TOWN CLERK	Yes	No	No
9	905	DEAVER TOWN CLERK			
9	906	GREYBULL TOWN CLERK	Yes	Yes	No
9	907	LOVELL TOWN CLERK	Yes	Yes	No
9	908	MANDERSON TOWN CLERK	No	No	No
10	1001	DUBOIS TOWN CLERK	Yes	No	Yes
10	1002	HUDSON TOWN CLERK	Yes	Yes	Yes
10	1003	LANDER TOWN CLERK	Yes	No	Yes
10	1004	PAVILLION TOWN CLERK			
10	1005	SHOSHONI TOWN CLERK	Yes	Yes	No
10	1006	RIVERTON CITY CLERK	Yes	No	Yes
11	1101	CODY CITY CLERK	Yes	Yes	No
11	1102	FRANNIE TOWN CLERK	Yes	No	Yes
11	1103	MEETEETSE TOWN CLERK	Yes	No	Yes
11	1104	POWELL CITY CLERK	Yes	Yes	Yes
12	1201	AFTON TOWN CLERK	Yes	Yes	Yes
12	1202	ALPINE TOWN CLERK	Yes	Yes	Yes
12	1203	COKEVILLE TOWN CLERK	Yes	No	No
12	1204	DIAMONDVILLE TOWN CLERK	Yes	Yes	No
12	1205	KEMMERER CITY CLERK	Yes	Yes	Yes
12	1206	LABARGE TOWN CLERK	Yes	Yes	Yes
12	1207	OPAL TOWN CLERK			
12	1208	THAYNE TOWN CLERK	Yes	Yes	Yes
12	1209	STAR VALLEY RANCH	Yes	No	Yes
13	1301	DOUGLAS CITY CLERK	No	Yes	Yes
13	1302	GLENROCK TOWN CLERK	No	No	Yes
13	1303	LOST SPRINGS TOWN CLERK	Yes	No	No
13	1304	ROLLING HILLS TOWN CLERK			
14	1401	LUSK TOWN CLERK	Yes	Yes	Yes
14	1402	MANVILLE TOWN CLERK	Yes	Yes	No
14	1403	VAN TASSELL TOWN CLERK			
15	1501	E THERMOPOLIS TOWN CLERK	Yes	No	Yes
15	1502	KIRBY TOWN CLERK	Yes	Yes	No
15	1503	THERMOPOLIS CITY CLERK	Yes	Yes	Yes

Local Ordinance Survey

County #	Lic Auth #	Authority Name	Adopt State Statute	18 Serve in Non-regulated	21 Ordinance
16	1601	BUFFALO TOWN CLERK	Yes	Yes	19
16	1602	KAYCEE TOWN CLERK	Yes	No	Yes
17	1701	GILLETTE CITY CLERK	Yes	No	Yes
17	1702	WRIGHT TOWN CLERK	Yes	No	Yes
18	1801	HULETT TOWN CLERK	Yes	Yes	Yes
18	1802	MOORCROFT TOWN CLERK	No	No	Yes
18	1803	PINE HAVEN TOWN CLERK	Yes	Yes	Yes
18	1804	SUNDANCE TOWN CLERK	Yes	No	Yes
19	1901	EVANSTON CITY CLERK	Yes	Yes	Yes
19	1902	LYMAN TOWN CLERK	No	No	Yes
19	1903	MOUNTAIN VIEW TOWN CLERK	Yes	No	Yes
19	1904	BEAR RIVER TOWN CLERK			
20	2001	TEN SLEEP TOWN CLERK	Yes	Yes	Yes
20	2002	WORLAND CITY CLERK	Yes	No	Yes
21	2101	NEWCASTLE CITY CLERK	No	No	Yes
21	2102	UPTON TOWN CLERK	Yes	No	Yes
22	2201	JACKSON CITY CLERK	Yes	Yes	Yes
23	2301	BIG PINEY TOWN CLERK	No	No	No
23	2302	MARBLETON TOWN CLERK	Yes	No	Yes
23	2303	PINEDALE TOWN CLERK	Yes	No	Yes
The twenty-three counties adhere to Wyoming Title 12.					
The following municipalities have no licenses issued: Bairoil, Bear River, Burns, Clearmont, Deaver, Opal,					
The following municipalities Could not be contacted: Hartville, Pavillion and Superior.					

State Sales, Gasoline, Cigarette, and Alcohol Taxes

As of January 1, 2008.

State	Sales Tax (a)	Gas Tax (Per Gallon) (k, l)	Cigarette Tax (Per Pack)	Spirits Tax (Per Gallon)	Table Wine Tax (Per Gallon)	Beer Tax (Per Gallon)
Alabama	4%	\$0.202	\$0.425	\$14.78 (n)	\$1.70	\$1.05
Alaska	none	\$0.08	\$2.00	\$12.80	\$2.50	\$1.07
Arizona	5.6% (b)	\$0.19	\$2.00	\$3.00	\$0.84	\$0.16
Arkansas	6%	\$0.218	\$0.59	\$2.58	\$0.77	\$0.21
California	7.25%	\$0.455	\$0.87	\$3.30	\$0.20	\$0.20
Colorado	2.9%	\$0.22	\$0.84	\$2.28	\$0.28	\$0.08
Connecticut	6%	\$0.441	\$2.00	\$4.50	\$0.60	\$0.20
Delaware	(c)	\$0.23	\$1.15	\$3.75	\$0.97	\$0.16
Florida	6%	\$0.332	\$0.339	\$6.50	\$2.25	\$0.48
Georgia	4%	\$0.26	\$0.37	\$3.79	\$1.51	\$0.48
Hawaii	4% (d)	\$0.326	\$1.80 (m)	\$5.98	\$1.38	\$0.93
Idaho	6%	\$0.25	\$0.57	\$9.24(n)	\$0.45	\$0.15
Illinois	6.25%	\$0.395	\$0.98	\$4.50	\$0.73	\$0.185
Indiana	6%	\$0.317	\$0.995	\$2.68	\$0.47	\$0.115
Iowa	5%	\$0.217	\$1.36	\$10.93 (n)	\$1.75	\$0.19
Kansas	5.3%	\$0.25	\$0.79	\$2.50	\$0.30	\$0.18
Kentucky	6% (e)	\$0.185	\$0.30	\$1.92 (o)	\$0.50 (o)	\$0.08 (o)
Louisiana	4%	\$0.20	\$0.36	\$2.50	\$0.11	\$0.32
Maine	5%	\$0.291	\$2.00	\$4.93 (n)	\$0.60	\$0.35
Maryland	6%	\$0.235	\$2.00	\$1.50	\$0.40	\$0.09
Massachusetts	5%	\$0.235	\$1.51	\$4.05	\$0.55	\$0.11
Michigan	6%	\$0.36	\$2.00	\$11.08 (n)	\$0.51	\$0.20
Minnesota	6.5%	\$0.22	\$1.49	\$5.03	\$0.30	\$0.15
Mississippi	7%	\$0.188	\$0.18	\$6.34 (n)	\$0.427	\$0.427
Missouri	4.225%	\$0.176	\$0.17	\$2.00	\$0.42	\$0.06
Montana	none	\$0.278	\$1.70	\$7.56 (n)	\$1.06	\$0.14
Nebraska	5.5%	\$0.239	\$0.64	\$3.75	\$0.95	\$0.31
Nevada	6.5%	\$0.325	\$0.80	\$3.60	\$0.70	\$0.16
New Hampshire	(f)	\$0.196	\$1.08	(q)	(p)	\$0.30
New Jersey	7%	\$0.145	\$2.575	\$4.40	\$0.70	\$0.12

New Mexico	5% (g)	\$0.18	\$0.91	\$6.06	\$1.70	\$0.41
New York	4%	\$0.412	\$1.50	\$6.44	\$0.19	\$0.11
N. Carolina	4.25%	\$0.302	\$0.35	\$10.36 (n)	\$0.79	\$0.53
N. Dakota	5%	\$0.23	\$0.44	\$2.50	\$0.50	\$0.16
Ohio	5.5% (h)	\$0.28	\$1.25	\$8.46 (n)	\$0.32	\$0.18
Oklahoma	4.5%	\$0.17	\$1.03	\$5.56	\$0.72	\$0.40
Oregon	none	\$0.25	\$1.18	\$19.26 (n)	\$0.67	\$0.08
Pennsylvania	6%	\$0.323	\$1.35	\$6.59 (n)	(p)	\$0.08
Rhode Island	7%	\$0.31	\$2.46	\$3.75	\$0.60	\$0.10
S. Carolina	6%	\$0.168	\$0.07	\$2.72	\$1.08	\$0.77
S. Dakota	4%	\$0.24	\$1.53	\$3.93 (s)	\$0.93 (s)	\$0.27
Tennessee	7%	\$0.214	\$0.62	\$4.40	\$1.21	\$0.14 (r)
Texas	6.25% (i)	\$0.20	\$1.41	\$2.40	\$0.204	\$0.19
Utah	4.65%	\$0.245	\$0.695	\$10.13 (n)	(p)	\$0.41
Vermont	6%	\$0.20	\$1.79	(q)	\$0.55	\$0.265
Virginia	5%	\$0.196	\$0.30	\$14.54 (n)	\$1.51	\$0.256
Washington	6.5% (j)	\$0.36	\$2.025	\$19.43 (n)	\$0.87	\$0.26
West Virginia	6%	\$0.315	\$0.55	\$1.87 (n)	\$1.00	\$0.18
Wisconsin	5%	\$0.329	\$1.77	\$3.36	\$0.25	\$0.06
Wyoming	4%	\$0.14	\$0.60	(q)	(p)	\$0.019
D.C.	5.75%	\$0.20	\$1.00	\$1.50	\$0.30	\$0.09

(a) Similar to sales taxes are gross receipts taxes (GRTs). GRTs are collected at the firm level instead of at retail, and apply to a broad range of intermediate goods, unlike sales taxes which in theory apply only to end products. Some states only have a GRT, and some have both a GRT and a sales tax.

(b) Arizona has no sales tax but does have a 5.6% GRT called the transaction privilege tax.

(c) Delaware has no sales tax but does have a GRT. Business and occupational gross receipts tax rates range from 0.096% to 1.92%, depending on the business activity.

(d) Hawaii has no sales tax but does have a GRT. The rate varies depending on the business activity; it is 0.15% on insurance commissions, 0.5% on certain activities such as wholesaling, and 4% on most activities at the consumer level.

(e) Kentucky has a GRT in addition to its 6% sales tax. The tax is paid on the greater of: (1) 7% of all net income, (2) 0.095% of gross revenue, or (3) 0.75% of gross profits.

- (f) New Hampshire has no sales tax but does have a GRT called the business enterprise tax (BET). It has a rate of .75% on gross income over \$150,000 or base (total compensation, interest and dividends paid) over \$75,000. Businesses must also pay the business profits tax (BPT), an 8.5% income tax on businesses with gross income over \$50,000.
- (g) New Mexico has no sales tax but does have a 5% GRT.
- (h) Ohio has a GRT that is levied in addition to its 5.5% sales tax. It is called the commercial activity tax (CAT). Firms with receipts over \$1 million pay the CAT; firms with receipts between \$150K and \$1 million pay a minimum tax of \$150. The rate in 2008 is 0.156%, and increases are scheduled in law to 0.208% on 4/1/2008 and 0.26% on 4/1/2009. The CAT is being phased in to replace Ohio's Corporate Franchise Tax, which is simultaneously being phased out.
- (i) Texas has a GRT that is levied in addition to its 6.25% sales tax. It is called the franchise tax and the rate is 1% (.5% for retailers).
- (j) Washington has a GRT in addition to its 6.5% sales tax. It is called the business and occupation tax and is levied at various rates. The major rates are 0.471% for retail sales, 0.484% for wholesale and manufacturing, and 1.5% for service and other activities.
- (k) In addition to the 18.4 cpg Federal gasoline tax.
- (l) Rates may include additional state sales taxes, environmental protection and storage fees/taxes, and local taxes. When necessary, the volume-weighted average of all local taxes is used to approximate the typical statewide rate including local tax.
- (m) Hawaii will continue to increase its tax by \$0.20 each Sept. 30 until Sept. 30, 2011 when the tax will reach \$2.60
- (n) States where the state government controls all sales. The implied excise tax rate is calculated using methodology designed by the Distilled Spirits Council of the United States (DISCUS).
- (o) There is an additional 11% wholesale sales tax on all alcoholic beverages.
- (p) All wine sales are through state-run stores. Revenue in these states is generated from various taxes, fees and net profits.
- (q) Control state where the implied excise tax rate as calculated by DISCUS is less than zero.
- (r) There is an additional 17% wholesale tax on beer.
- (s) There is an additional 2% wholesale tax on wine and spirits.

Sources: American Petroleum Institute, state revenue departments, Distilled Spirits Council of the U.S., and Tax Foundation.

State Statutes or Regulations Prohibiting Happy Hours and Other Drink Specials Promotions¹¹

	Prohibit Happy Hours and/or Drink Specials	Prohibit Free Beverages	Prohibit Additional Servings	Prohibit Reduced Price - Specified Day or Time	Prohibit Unlimited Beverages - Fixed Price, Fixed Time	Prohibit Increased Volume	Prohibit Prizes
Alabama	√			√	√		
Alaska	√	√	√	√	√		√
Arizona	√		√		√		
Arkansas							
California							
Colorado							
Connecticut	√		√		√		√
Delaware	√			√	√		√
District of Columbia							
Florida							
Georgia							
Hawaii							
Idaho							
Illinois	√		√	√	√	√	√
Indiana	√		√	√			
Iowa							
Kansas	√	√		√	√	√	√
Kentucky							
Louisiana ¹²	√				√		
Maine	√	√	√		√		√
Maryland							
Massachusetts	√	√	√	√	√	√	√
Michigan	√				√		√
Minnesota							
Mississippi							
Missouri							
Montana							
Nebraska	√				√		
Nevada							
New Hampshire							
New Jersey	√				√	√	√
New Mexico	√	√	√	√	√		√
New York	√	√			√		

¹¹ Source: PIRE, 2003. This chart contains data on State statutes and regulations that specifically target happy hour types of promotions. Although some States may have provisions that prohibit awarding alcohol as a prize or providing free beverages in other parts of statutory or regulatory codes as a stand-alone statute or regulation, the information in this chart focuses on States with provisions expressly prohibiting excessive-drinking practices. The categories in the chart are defined as follows: *Free beverages*—happy hour provisions that specifically prohibit the distribution of free alcoholic beverages; *Additional servings*—prohibitions against an establishment providing additional servings of alcoholic beverages before previous servings have been consumed; *Reduced price - specified day or time*—prohibitions against the sale of alcoholic beverages at reduced prices during a specified day or time; *Unlimited beverages - fixed price, fixed time*—prohibitions against the sale of alcoholic beverages during a fixed period of time for a fixed price; *Increased volume*—prohibitions against increasing the volume of alcoholic beverages in a drink without increasing the price; *Prizes*—happy hour provisions that contain specific prohibitions against giving alcoholic beverages as prizes. Checkmarks indicate the presence of a policy. The legal research is current as of January 1, 2003

¹² In Louisiana, selling or serving alcoholic beverages at a fixed price after 10 p.m. is prohibited.

	Prohibit Happy Hours and/or Drink Specials	Prohibit Free Beverages	Prohibit Additional Servings	Prohibit Reduced Price - Specified Day or Time	Prohibit Unlimited Beverages – Fixed Price, Fixed Time	Prohibit Increased Volume	Prohibit Prizes
North Carolina	√			√	√		
North Dakota							
Ohio	√		√	√	√	√	√
Oklahoma	√		√	√	√	√	√
Oregon ¹³							
Pennsylvania	√		√	√	√	√	
Rhode Island	√	√	√	√	√	√	√
South Carolina	√	√		√			
South Dakota							
Tennessee	√	√	√	√	√	√	√
Texas	√		√	√	√	√	
Utah							
Vermont	√		√			√	
Virginia	√	√	√	√	√	√	√
Washington	√			√			
West Virginia							
Wisconsin							
Wyoming							
State Totals	27	10	16	18	23	12	15

¹³ Although Oregon has no happy hour statute per se, it does have a provision that prohibits providing alcohol as prizes.

Administrative Penalties for Sales and Service to Obviously Intoxicated People

State	1 st Offense Maximum ¹⁴	1 st Offense Guideline	2 nd Offense Guideline	3 rd Offense Guideline	4 th Offense Guideline ¹⁵
Alabama ¹⁶	\$1000 fine or up to 1 year suspension/revocation	No Guidelines			
Alaska	Fine not greater than 3 times monetary gain of sale resulting from the violation or \$10,000, and/or 45-day suspension	Suspension up to 45 days, and/or fine not greater than 3 times monetary gain of sale resulting from the violation or \$10,000. No revocation permitted.	Suspension up to 90 days, and/or fine not greater than 3 times monetary gain of sale resulting from the violation or \$30,000. No revocation permitted.	Fine not greater than 3 times monetary gain of sale resulting from the violation or \$50,000, and/or suspension/revocation	Not Specified
Arizona ¹⁷	Fine not greater than \$3,000 and/or suspension/revocation.	Fine of \$1,500 and/or up to 30-day suspension	Fine of \$2,000 - \$3,000 and/or up to 30-day suspension	Fine of \$3,000 or more and/or 30-day suspension up to revocation	Not Specified
Arkansas	Fine or suspension/revocation.	No Guidelines			
California	Suspension/revocation or \$3,000 fine in lieu of	Suspension/revocation or 50% estimated gross sales between \$750 - \$3,000	Same, but mandatory suspension	Revocation	N/A

¹⁴ This describes the maximum penalty allowed by statute for a given violation. It may include maximums set forth by a State’s general administrative penalty statute or by specific statute. “No provision identified” indicates that legal researchers could not identify a law regarding the particular violation. “No max identified” indicates that a statute or a general administrative penalty that explicitly specifies a maximum penalty could not be identified.

¹⁵ The 1st-4th Offense Guideline categories describe the range of penalties recommended as per informal penalty guidelines, specific statutes, or general administrative penalties. Where “Same” is listed, please refer to the column at immediate left of “Same”. “Not specified” indicates that the legal researchers could not identify if the State specifically lists a penalty guideline for the particular offense. “N/A” denotes not applicable, and “No Guidelines” indicates that the legal researchers were unable to identify any guidelines for the offense listed.

¹⁶ In Alabama, State law specifies that a license shall be revoked on a second or a subsequent offense. However, ABC Rules and Regulations state that a fine schedule will be established for use when a licensee wishes to plead guilty to a first or second offense charge. Researchers were unable to obtain a copy of this fine schedule.

¹⁷ In Arizona, suspension days and fines may be substituted for one another, at the discretion of the Compliance Officer, at the rate of one day of suspension equal to \$250.

State	1 st Offense Maximum ¹⁴	1 st Offense Guideline	2 nd Offense Guideline	3 rd Offense Guideline	4 th Offense Guideline ¹⁵
Colorado	15-day suspension or fine 20% estimated gross revenue up to \$5,000 in lieu of	15-day suspension. 5 days served and 10-day abeyance, or fine 20% estimated gross revenue between \$200 - \$5,000	Not Specified	Not Specified	Not Specified
Connecticut	Suspension/ revocation and/or fine in lieu of	1-4-day suspension, and/or \$750-\$1,500 fine	1-7-day suspension, and/or \$750-\$2,000 fine	1-11-day suspension, and/or \$750-\$2,500 fine	Not Specified
Delaware	Suspension/ revocation and/or fine	No Guidelines			
District of Columbia	Suspension/ revocation and/or fine	Suspension/ revocation and/or at least a \$1,000 fine	Suspension/ revocation and/or at least \$2,000 fine, within 2 years	Suspension/ revocation and/or at least \$4,000 fine, within 3 years	Revocation
Florida ¹⁸	No provision identified	N/A			
Georgia	Suspension/ revocation	No Guidelines			
Hawaii (Maui)	No Max identified.	Fine \$1,000 - \$2,000	Fine of at least \$2,000 or up to 30-day suspension	Up to 30-day suspension or revocation	Revocation
Idaho	\$5,000 fine or suspension not greater than 6 months	10-day suspension or fine in lieu of	30-day suspension or fine in lieu of	60-day suspension or fine in lieu of	Not Specified
Iowa	Suspension/ revocation and/or \$1,000 fine	(21-day suspension) or (\$750 fine and 10-day suspension) or (\$1,000 fine and 7-day suspension)	Not Specified	Not Specified	Not Specified

¹⁸ In Florida, all administrative fines may be substituted with license suspensions using the ratio of 1 day of suspension for each \$50.

State	1 st Offense Maximum ¹⁴	1 st Offense Guideline	2 nd Offense Guideline	3 rd Offense Guideline	4 th Offense Guideline ¹⁵
Illinois	\$1,000 fine and/or suspension/ revocation	Same	Fine up to \$1,500 and/or suspension/ revocation	Fine up to \$2,500 and/or suspension/ revocation	Same
Indiana	\$1,000 fine and/or suspension/ revocation	No Guidelines			
Kansas	\$1,000 fine and/or suspension/ revocation	\$100 fine and/or 1-weekday suspension	\$200 fine and/or 1-weekend day suspension	\$300 fine per minor and/or suspension of one weekend day (Fri or Sat)	\$500 fine per minor and/or two weekend days suspension
Kentucky	Suspension/ revocation or \$50/ day suspension in lieu of	No Guidelines			
Louisiana	\$500 fine and/or suspension/ revocation	Same	\$250-\$1,000 fine, and/or suspension/ revocation	\$500-\$2,500 fine, and/or suspension/ revocation	Not Specified
Maine	\$1,500 fine and/or suspension/ revocation	No Guidelines			
Maryland	County specific	N/A			
Massachusetts	\$500 fine and/or 1 yr in jail and/or suspension/ revocation	No Guidelines			
Michigan ¹⁹	\$1,000 fine and/or suspension/ revocation	No Guidelines			
Minnesota	\$2,000 fine and/or up to 60-day suspension/ revocation	No Guidelines			
Mississippi	\$1,000 fine and/or suspension/ revocation	\$500 fine and/or suspension/ revocation	\$900 fine and/or suspension/ revocation	\$1,000 fine and/or suspension/ revocation	Not Specified
Missouri	No Max Identified	No Guidelines			
Montana	\$250 fine and/or suspension/ revocation	Same	\$1,000 fine	\$1,500 fine and/or 20-day suspension	Revocation

¹⁹In Michigan, a third or subsequent offense will result in a mandatory suspension/ revocation of license.

State	1 st Offense Maximum ¹⁴	1 st Offense Guideline	2 nd Offense Guideline	3 rd Offense Guideline	4 th Offense Guideline ¹⁵
Nebraska	Suspension/ revocation or \$50 fine per day issued suspension in lieu of	\$500 - \$1,000 Fine and/or 10-20-day suspension	\$2,000 - \$4,000 Fine and/or 20-50-day suspension	\$4,000 - \$6,000 and/or 25-60-day suspension	Revocation
Nevada	No provision identified.	N/A			
New Hampshire ²⁰	\$500 fine and/or 1-7 days suspension	Fine \$100 - \$500 and/or 10-17-day suspension	Fine \$250 - \$1,000 and/or 10-24-day suspension	Fine \$500 - \$1,500 and/or 10-30-day suspension	(Fine \$750 - \$3,000 and/or 10-40-day suspension) or (40-day suspension)
New Jersey	15-day suspension or ½ gross estimated profit per day suspension in lieu of	Same	30-day suspension or ½ gross estimated profit per day suspension	45-day suspension or ½ gross estimated profit per day suspension	Revocation.
New Mexico	\$10,000 fine and/or suspension/ revocation	No Guidelines			
New York	\$10,000 fine and/or suspension/ revocation	No Guidelines			
North Carolina ²¹	\$500 fine and/or up to 3-year suspension/ revocation	Up to \$500 fine and/or up to 3-year suspension/ revocation	Up to \$750 fine, and/or up to 3-year suspension/ revocation	Up to \$1,000 fine, and/or up to 3-year suspension/ revocation	Not Specified
North Dakota	Suspension/ revocation	No Guidelines			
Ohio	Suspension/ revocation or \$200 fine per day issued suspension in lieu of	No Guidelines			
Oklahoma	Revocation	N/A			
Oregon	30-day suspension/ revocation and/or \$5,000 fine	Up to 10 days suspension or \$1,650 fine	Up to 30 days suspension or \$4,950 fine	Up to 30-day suspension	Revocation

²⁰ New Hampshire allows for reduction of suspension length for “good behavior.” “Good behavior” is defined as compliance with all commission administrative fine payment deadlines and/or orders issued under Liq. 206.03.

²¹ In North Carolina, the commission may accept an offer in compromise of an issued suspension, up to \$5,000.

State	1 st Offense Maximum ¹⁴	1 st Offense Guideline	2 nd Offense Guideline	3 rd Offense Guideline	4 th Offense Guideline ¹⁵
Pennsylvania ²²	\$5,000 fine and/or suspension/ revocation	No Guidelines			
Rhode Island	\$500 fine and/or suspension/ revocation	Up to \$500 fine and/or suspension/ revocation	Up to \$1,000 fine and/or suspension/ revocation	Same	Same
South Carolina	\$1,500 fine and/or suspension/ revocation	\$400 fine and/or suspension/ revocation	\$800 fine and/or suspension/ revocation	45 days suspension and/or revocation	Revocation.
South Dakota	Suspension up to 60 days or revocation or up to \$75,000 offer in compromise	No Guidelines			
Tennessee	Suspension/ revocation or \$1,500 fine	Suspension/ revocation or \$200 - \$1,000 fine	Same	Same	Same
Texas ²³	60-day suspension, or fine in lieu of	7-day suspension or fine in lieu of	10-15-day suspension or fine in lieu of	25-day suspension – revocation or fine in lieu of	Not Specified
Utah	\$25,000 fine and/or suspension/ revocation	Fine \$1,000 - \$25,000 and/or 10 day suspension or revocation	15-day suspension or revocation	Same	Same
Vermont	Suspension/ revocation	No Guidelines			
Virginia ²⁴	No Max Identified	\$2,000 fine or 25-day suspension	Not Specified	Not Specified	Not Specified
Washington	No Max Identified	5-day suspension or \$100 fine in lieu of	10-day suspension or \$200 fine in lieu of	30-day suspension or \$400 fine in lieu of	Revocation
West Virginia	\$1,000 fine and/or suspension/ revocation	No Guidelines			
Wisconsin	Suspension/ revocation	No Guidelines			
Wyoming	No provision identified	N/A			

²² In Pennsylvania, third and subsequent offenses will result in a mandatory suspension/revocation.

²³ In Texas, a fine may be issued in lieu of issued suspension in the amount of \$150-\$25,000 per day of issued suspension or fine of \$75-\$500.

²⁴ In Virginia, a second or subsequent offense will result in a mandatory suspension.