

Illinois Underage Drinking Policy Resource Guide

Introduction

Underage drinking in Illinois is a significant public health and safety issue resulting in numerous personal, social and economic consequences for youth, their families, schools and communities. In Illinois, the estimated economic costs of underage drinking alone are *\$2.9 billion dollars*. According to the 2012 Illinois Youth Survey, alcohol continues to be the number one drug of choice among youth, and two out of three 12th graders report using alcohol in the past year.

In order to effectively address problems associated with underage drinking, communities must implement a comprehensive approach addressing the legal, social and economic factors that either intentionally or unintentionally contribute to the problem. Research has shown that the adoption of appropriate laws with subsequently strong enforcement, coupled with appropriate sanction of these laws, can play a significant role in reducing underage drinking and its negative and often tragic consequences. Such strategies depend on the involvement, education and mobilization of adolescents, parents, schools and the community.

Prevention First is committed to providing information and resources that can guide youth, parents and communities to prevent underage drinking using best practice steps and strategies. This resource guide focuses on specific underage drinking laws and sanctions in Illinois as well as information about the adoption of local policy and best practice enforcement strategies to prevent underage drinking. For more information, please contact Prevention First's Manager of Training and Technical Assistance at 217.836.5346.

Local Policy Efforts Aimed at Reducing Underage Drinking

The adoption and enforcement of underage drinking laws at the local level has been proven to reduce underage drinking. A combination of commitment to addressing the root cause of the problem, effective penalties and comprehensive enforcement and public education efforts will enhance a community's efforts to reduce underage drinking. The Institute of Medicine notes that "the effectiveness of laws to restrict access to alcohol by youth can be increased by closing gaps in coverage, promoting compliance, and strengthening enforcement."

In Illinois, the state regulates the use of alcoholic beverages. Illinois authorizes local units of government to create laws that regulate alcohol sales and consumption in their communities that can complement state laws. Such regulations generally take the form of municipal or county ordinances.

Alcohol policies can include a number of formal laws and rules, enforcement of these laws, and more informal procedures designed to reduce underage drinking. Examples of this include a formal law of banning sales of alcohol to minors, compliance checks designed to enforce the law and internal policy/procedures designed to increase the likelihood that minors will not be served alcohol by retail establishment staff. These laws and procedures make it more difficult and more costly for young people to obtain alcohol and they make it more risky and costly for adults to provide alcohol to underage drinkers. These policies can also strengthen community norms against underage drinking and against providing alcohol to youth.

Many communities have successfully adopted local ordinances and policies designed to reduce underage drinking that complement federal and state laws or enhance local efforts to reduce underage drinking. The following are examples of local policy efforts to reduce underage drinking:

- Public Possession
- Carrying open containers out of premises
- Presence of minors in a liquor establishment
- Keg regulations
- Special event permitting
- Loud music
- Nuisance Party Houses
- Adult Responsibility
- Misrepresentation of Age
- Server Training/Licensing
- Bar Security Training
- Possession on Business Parking Lots

- Social Host

TOOL KIT: Considerations for Ordinance Development

Introduction

At the heart of every ordinance is the vision a community has for their citizens. The community Charter contains the language which empowers local officials to establish and enforce rules and regulations created by the community. Generally ordinance development seeks to provide a sustainable quality of life and to provide basic services for the health, safety and welfare of the community. This document is focused on providing a basic understanding of local ordinances and the process and procedures associated with their creation.

What is an ordinance?

Unlike a state statute which is passed by the legislature and signed by the governor, an ordinance is a law established and enforced by a local town or municipality. State constitutions provide towns and municipalities with the lawful authority to establish local laws called ordinances and also referred to as local code. Enabling state statutes that address local power and authority dictate how municipal legislation shall be created. For example:

“Municipal legislation shall be by ordinance. Each ordinance shall be identified by a number and a short title. The enacting clause of each ordinance shall be "The City of _____ ordains," and the effective date of each ordinance shall be specified in it. All ordinances shall be recorded at length uniformly and permanently by the city clerk, and each ordinance so recorded shall be authenticated by the signature of the mayor and the city clerk. Ordinances shall be published, compiled and revised in such manner and at such times as the elected body shall determine.”¹

¹ NHRSA Title III, Chapter 49C, 49C:14

A municipal ordinance is no different than any other law and can be enforced and provide penalties. Ordinances are subject to challenge in court and must comply with other laws of the land, such as the country's constitution. Municipal bylaws are often enforceable through the justice system and offenders can be charged with civil and/or criminal offenses for breach of an ordinance. Common ordinance regulation includes land use, building and development, alcohol and business licensing, entertainment, parking and conservation.

Preparing to Address Your Issue

One should consider the process and procedures that follow in preparation to address the area or issue of concern to you or your concerned citizens.

1. Research the Law

Before you begin this long and often complicated journey, you should thoroughly research your issue. It is important to understand the process and procedures that make up the ordinance process, including federal and state lobbying restrictions that may apply. Many communities maintain their ordinances online so the public can avail itself of the community's laws. In addition to the community maintained websites, commercially prepared web-based ordinances are also available from a variety of commercial sources such as Westlaw, LexisNexis and Municode. For information about federal lobbying restrictions, please contact your federal funding agency provider.

2. Meet Regularly from the Start

If you are part of a group of concerned citizens, locate a convenient and comfortable place to meet to work on your ordinance. It is important to meet regularly, at the same time and the same place. Meetings probably should take place weekly at first in order to maintain momentum. If you are working alone be sure to have access to the tools you need to research and organize your efforts. You should consider developing a timeline that will provide you with a realistic sense of how long the process will take and how many steps are involved from concept to passage.

3. Develop a Strategy

Every community is different. The mix of elected officials, mayors, city councilpersons, and county commissioners may be progressive, conservative, liberal, or somewhere in between. They may be open to new ideas or closed to changing the status quo. Your locale may be rural, suburban, or inner-city. Your group will need to decide how receptive your local government will be to your ordinance. The degree of receptivity will determine your strategy. In some communities, it may be enough to speak personally with the mayor and a few commissioners to ensure the passage of your ordinance. Other communities may require extensive organizing, petition signing, and a massive publicity effort to pass an ordinance. Consider who might be open to the goals of your ordinance or resolution. Sometimes it may be a good idea to let some of your city or county commissioners know what you are doing before presenting your ordinance. They may have helpful observations that can make your efforts easier. Others may find it best to involve councilpersons as little as possible until your ordinance is brought before the full Commission. These considerations should be part of your early strategic planning.

4. Identify Supporters and Opponents

While many might agree with your intention to regulate or deregulate your issue, undoubtedly there will be people or organizations that do not support your position. Make a list of individuals, groups, and organizations that are willing to work with you on your effort. If someone in your group knows someone in another group or organization, ask that person to contact the potential ally. Friendly groups can expand your efforts in gathering signatures, include your articles in their newsletters, or they can supply warm bodies to support your efforts. In some cases they can do all three. Similarly, make a list of individuals and organizations that are likely to oppose your efforts. It's important to know who your critics are and what their arguments are likely to be. Strategies can be developed to minimize or marginalize your opposition or to respond to their arguments.

5. Your List of Things to Do

There can be lots of “to do” items to accomplish your goal. Some of the tasks might include:

- Meeting agendas
- Find and reserve meeting rooms
- Public relations
- Press releases
- Public Service Announcements
- Set up meeting room
- Create newsletter or educational materials
- Break down and clean up meeting room
- Fundraising
- Draft petition or resolution
- Maintain database
- Make postcards, flyers and labels
- Fact sheet
- Create brochure
- Action Alerts
- Create petition
- Make posters
- Tabling²
- Establish and manage email list
- Buttons
- Bumper stickers
- Phone calling

² “Tabling” is setting up a small table (card table for example) with literature, postcards, petitions, and signup sheets for people to read or take with them. This allows you to more effectively get the word out to people in your community.

It's important to assign volunteers to small, short-term, well-defined tasks.

It is difficult to maintain volunteer interest in open-ended or poorly defined tasks. Be specific! You may or may not want to form committees to address these and other tasks. Larger groups may need committees whereas individuals in smaller groups simply may volunteer for several tasks. Examples of committees might include:

- Coordinating Committee
- Program Committee
- PR Committee
- Statement/Petition Committee
- Fundraising/Sponsorship/Organizing Committee

6. Inform Your Community

The benefits of community outreach are:

- More interested people to join in the effort to pass an ordinance;
- Larger audience for distribution of posters and petitions;
- Larger pool of people who can speak in favor of the resolution at important community meetings or communicate with the press;

Effective outreach sparks community dialogue and raises the visibility of your resolution. Prepare a presentation that can be given as a program to organizations and groups that are potential allies. Many groups have regularly scheduled meetings, such as monthly brown bag lunches, breakfasts, or membership meetings, and are looking for programs. Presentations should make good use of audio/visual tools to maintain interest. Be prepared with sign-up sheets, fact sheets, postcards, petitions, action sheets, or other materials. Sources for support and outreach include individuals, businesses, and nonprofits. High school and college students can be especially helpful in collecting signatures or tabling at various locales.

7. Distributing Educational Materials

An important component of influencing public policy is to gain the support of the public. To bring ordinance development on needs to educate the public on your issue or concern. To accomplish these objectives you need to educate a wide variety of people representing a broad range of disciplines and interests. Materials can often be placed in coffee shops, book stores, local co-op grocery stores, or wherever a sympathetic audience may shop. Forums, meetings, and presentations are all good opportunities to make educational material available to the public. Fact sheets, literature and articles, petitions, donation jar, and sign-up sheets, all should be available. Bumper stickers and buttons can be made available for a donation.

8. Drafting your Proposed Ordinance

Drafting legislation can be a very challenging process. The language needs to be drafted in such a way as to comply with the Constitutional protections afforded citizenry. Language that is too vague will be deemed unconstitutional if challenged. The void for vagueness doctrine was made in *Connally v. General Construction Co.*, 269 U.S. 385 (1926) by Justice George Sutherland:

[T]he terms of a penal statute [...] must be sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties... and a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law.

The void for vagueness doctrine is seen as protecting an individual's right to due process. A number of online resources are available to view sample ordinances or explore existing ordinances to become better acquainted with language that has been deemed sufficient and appropriate to pass evaluation. Some of these websites include:

- The Underage Drinking Enforcement Training Center at PIRE
- The Municipal Service and Research Center of Washington State
- Cornell University Law School, Legal Information Institute
- University of Minnesota, Alcohol Epidemiology Program
- The Robert Wood Johnson Foundation
- CADCA

Once your ordinance is drafted it will need to be introduced to the elective body who will vote to adopt or reject. After drafting your resolution, meet with the City or Town Council sponsor of your draft resolution (or city manager or city attorney) to determine if your document is one that will have support. This effort will be much like drafting a bill for your state legislature. You'll need a sponsor and you'll need to have it reviewed to make sure it passes legal muster.

The ordinance adoption process has very rigid requirements. The draft language needs to be reviewed for compliance with formatting rules and the draft will certainly be reviewed by the community's legal advisor for its Constitutionality.

9. Media Involvement

Brainstorm with others to identify all known media outlets, including radio and TV stations newspapers, community newspapers, and weekly publications. University newspapers and radio stations are also good resources. Identify the publications of various organizations as well. Call each outlet to ask for a fax number and an e-mail to which press releases, articles, op-ed pieces, or letters to the editor are sent. After

sending out a press release, make a follow-up phone call to verify receipt of the fax or email. Sending letters to the editor is a very frugal form of communication with the public. The more letters people send in, the more support demonstrated for your ordinance.

10. Petition Drive

In some locales, organizing a petition drive and obtaining signatures may be the only way to get the commission, mayor, or council's attention to pass an ordinance. If your group determines there is need for a petition, there are several good sources of collecting signatures for petitions. Attend meetings where the audience is likely to be receptive to your efforts. Come to the meeting with educational materials, including fact sheets, "what you can do" sheet, signup sheet, and petitions. Set up a display table with your educational materials. Ask ahead of time if you can have a minute to describe your effort and pass around a petition at the meeting, otherwise stand next to your display and talk to people, asking them to sign your petition.

11. Contacting Your Elected Officials:

Make sure to contact your city councilor, county commissioner, and mayor at the appropriate time. Ask those community supporters of your resolution to call or write their City or County Commission members or legislator to ask for their support. If email is used for communication, verify that your commissioners have, use, and read their email! Often a letter or phone call carries more weight than an e-mail message. Urge your supporters to attend the City or County Commission meeting and to speak in favor of the resolution during the "public comment" period. (Don't overlook high school and college students as speakers!)

12. Following Through to the End . . .

The work involved in the development of an ordinance can be a long, difficult and emotionally challenging effort. Remember that regardless of the outcome of the ordinance, you reached many people with your message. Public education is key to the success of any campaign and, over time, an educated public will effect positive changes in peoples' lives. It is common that city councilors, county commissioners, or mayors need to be convinced. Several meetings may take place before a vote is taken. A resolution might be tabled indefinitely or a resolution might fail when the voting does finally take place. Assess the current situation, review the reasons your resolution didn't pass and then try again when the time is right.

Source: (n.d.), "Toolkit to Pass a Local Ordinance" on Underage Drinking Enforcement Training Center website, www.udetc.org; retrieved January 2014.

To further assist you with efforts to pass local ordinances, The Illinois Liquor Control Commission has a database of municipal and county level liquor ordinances at: <http://www.state.il.us/lcc/LocalSurvey.asp>. There is information related to the types of liquor sales allowed, age-related ordinances, and sale hours as well as Beverage Alcohol Sellers and Servers Education and Training (BASSET) requirements and other miscellaneous local rules related to alcohol.

Illinois Laws Related to Underage Drinking:

The matrix below provides information and resources on Illinois laws related to underage drinking. The matrix includes the title of the law, the source for where it can be located and a brief definition of the law.

Category	Law/Source	Definition
General Provisions	Illinois Liquor Act of 1934 Source: 235 ILCS 5/1	Establishes the framework for issuing licenses in Illinois and sets forth specific rules governing the manufacture, distribution and sale of alcoholic beverages in the State of Illinois Established the Illinois Liquor Control Commission (ILCC) to oversee the implementation and enforcement of the Liquor Control Act
	Local Control of Liquor Licenses Source: 235 ILCS 5/4-1	The Illinois Liquor Control Act provides for cities and counties to issue liquor licenses within their respective communities. Allows them to set the number, kind, classification and license fees The Liquor Control Act gives locals the right “to establish such further regulations and restrictions upon the issuance of and operations under local licenses not inconsistent with law as the public good and convenience may require; and to provide penalties for the violation of regulations and restrictions.”
	Local Commissioners	May revoke, suspend or fine any

	<p>Powers Source: 235 ILCS 5/4-4(1) & 235 ILCS 5/7-5</p>	<p>license for violations of the Liquor Control Act of 1934 or any valid ordinance (30 days)</p>
<p>Illinois Laws Addressing Minors in Possession</p>	<p>Underage Possession of Alcohol Source: 235 ILL Comp. Stat. 5/6-16 235 ILL Comp Stat. 5/6-20</p>	<p>Possession is prohibited with the following exceptions: Parent/guardian presence and consent</p>
	<p>Underage Consumption of Alcohol Source: 235 ILL Comp. Stat. 5/6-20</p>	<p>Consumption is prohibited with the following exceptions: Private residence AND Parent/guardian presence and consent</p>
	<p>Underage Purchase of Alcohol Source: 235 ILL Comp. Stat. 5/6-20</p>	<p>Purchase is prohibited, but youth may purchase for law enforcement purposes.</p>
<p>Illinois Laws Addressing False Identification</p>	<p>Misrepresentation of Age Source: 235 Ill Comp. Stat.5/6-16(a) See also 235 Ill Comp. Stat. 5/10(1)(e)</p>	<p>Any person under the age of 21 years who presents or offers to any licensee or his employee any written evidence of age that is false in an attempt to order or purchase alcoholic beverages is Guilty of a Class A Misdemeanor</p>
	<p>Possession of a False Identification Source: 235 Ill Comp. Stat. 5/6-16(a) See also 625 Ill Comp. Stat. 5/6-206(a)(10)</p>	<p>Any person under 21 years of age who possesses any false or fraudulent evidence of age is guilty of a Class A Misdemeanor</p>
	<p>Use of A False Identification Source: 235 Ill Comp. Stat. 5/6-16(a) & 5/6-16.2 See also 625 Ill Comp. stat.</p>	<p>Any person under 21 years of age who uses a false or fraudulent Illinois Driver's license or Illinois Identification card in an attempt to purchase alcoholic beverages or to gain entry to a licensed premise may have their driver's license suspended. Law Enforcement Officers are to make notification to The Secretary of State's Office.</p>

	Sale/Furnishing of a False Identification Source: 235 Ill Comp. Stat. 5/6-16(a)	Any person who sells, gives or furnishes to anyone under the age of 21 any false identification is guilty of a Class A Misdemeanor
	Manufacture of Fictitious or Unlawfully Altered identification Card Source: 15 Ill Comp. Stat 335/14A(b)(9)	It is a Class 4 Felony to knowingly manufacture, possess, transfer or provide any identification document whether real or fictitious for the purpose of obtaining a fictitious identification card
	Obstructing Identification Source: 720 Ill Comp. Stat. 5/31-4.5	A person commits the offense of obstructing identification when they intentionally or knowingly furnish a false or fictitious name, residence address or date of birth to a peace officer who has lawfully arrested or detained the person
Miscellaneous Charges Minors & Alcohol	Action Against a Minor Source: 235 Ill Comp. Stats 5/6-16(a)	If a Licensee is prosecuted under 235 ILCS 5/6-16(a) for selling, giving or delivering alcoholic beverages to a person under 21 years of age then the subject under 21 years of age may be prosecuted pursuant to Section 6-20 of the Liquor Control Act
	Possession on a Street or Highway Source: 235 Ill Comp. Stat. 5/6-16(a)(1)(a)	Any person under the age of 21 who has any alcoholic beverage in their possession on any street, highway or in any public place is guilty of a Class B misdemeanor. Exception: As part of their employment or at the direction of a parent
	Possession on School Property Source: 235 Ill Comp. Stat. 5/6-16(e)	Any person of any age who has alcoholic liquor in their possession on public school district property on a school day or at events on school property when children are present is guilty of a petty offense
Laws Addressing Commercial Vendors	Sale to a Minor & Delivery to a Minor	No licensee or any of their representatives shall sell, give

of Alcohol/Minors	Prohibited Source: 235 Ill Comp. Stat. 5/6-16(a) (i) & 5/6-16(a) (ii)	or deliver alcoholic liquor to any person under age 21. No common carrier or any of their representatives shall knowingly deliver alcohol to any residence without first obtaining a signature from an adult over 21 years of age at the time of delivery
	Age of Entry to a Bar Source: 235 Ill Comp. Stat 5/6-16(a)	Any city or county may prohibit a licensee from permitting a person under the age of 21 years to enter or remain in a portion of the premise that sells, gives or delivers alcoholic liquor for consumption on the premise
	Action Against a Minor Source: 235 Ill Comp. Stats 5/6-16(a)	If a Licensee is prosecuted under 235 ILCS 5/6-16(a) for selling, giving or delivering alcoholic beverages to a person under 21 years of age then the subject under 21 years of age may be prosecuted pursuant to Section 6-20 of the Liquor Control Act
	Furnishing Alcohol to Minors Source: 235 Ill Comp. Stat. 5/6-16(a) (iii)	No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver said alcoholic liquor to anyone under the age of 21 years. Note: Applies to a minor furnishing to a minor as well
	Adequate Written Evidence of Age Source 235 Ill Comp. Stat. 5/6-16(a)	Any licensee or common carrier or their employee shall refuse to sell, deliver or serve alcoholic beverages to anyone who is unable to produce adequate written evidence that they are over 21 years of age if requested by the licensee or common carrier Note: Asking for identification is discretionary and not mandated
	Affirmative Defense for Licensee Source: 235 Ill Comp. Stat	Proof that the licensee or their employee demanded and was shown and reasonably relied

	5/6-16(a)	upon such written evidence as proof of age creates an affirmative defense in any criminal prosecution of the licensee or administrative sanction of their license. Note: The defense is not available if the individual knew the identification was false at the time it was presented
Employment Of Minors	Employment of Minors Source: 235 Ill Comp. Stat. 5/4-1 & Title 11: Alcohol, Horse Racing and Lottery Subtitle A: Alcohol Chapter 1 ILCC Part 100 Section 100.20 & 100.10	Cities and Counties may regulate the employment of minors between the ages of 18-20 through their local control. No one under the age of 18 is permitted to sell directly or indirectly any alcoholic beverages.
Illinois Laws Addressing Advertising Directed toward Youth	Alcopops Advertising Source: 235 Ill Comp. Stat. 5/6-35(b)	No entity may advertise, promote or market any alcopop beverages to children: Prohibits use of cartoons, sponsorship of athletic events where youth are the primary audience, bans billboards with 500 feet of schools, public parks, amusement parks & places of worship & the display of alcopops in any video game, theater production or live performance where the intended audience is children
	Prohibit False or Misleading Alcohol Advertising & Prohibit Alcohol Advertising that Targets Minors Source: ILL Admin Code; tit.11, Ch. 1, part 100, section 100.50 Amended at 23 Ill. Reg. 3787	Advertising: 1) No licensee, or the agent or representative thereof, may advertise any alcoholic beverage in any medium intended for circulation, viewing or listening within this State unless such advertisement is in conformity with the provisions of this Part. 2) Such advertisement shall conform to the approved label upon the immediate container of the alcoholic liquor advertised.

		<p>3) Such advertisements shall not contain illustrations of children nor shall they make use of any material which would make a special appeal to juveniles.</p> <p>4) Such advertisements shall not contain any material which is false or untrue in any respect</p>
	<p>Restrict Alcohol Advertising on Alcohol Retail Outlet Windows and in Outside Areas Source: 235 ILCS 5/6-5</p>	<p>Places specific limits on alcohol signs a retailer may place in windows and outside their establishment</p>
<p>Intoxicated Individual/Dram Shop Actions</p>	<p>Sale to the Intoxicated individual prohibited Source: 235 Ill Comp. Stat. 5/6-16(a)(i)</p>	<p>No licensee or any of their representatives shall sell, give or deliver alcoholic liquor to any intoxicated individual</p>
	<p>Actions for Damages Caused by Intoxication Source: 235 Ill Comp. Stat. 5/6-21(a) & 235 Ill Comp. Stat. 5/6-2(a)(18)</p>	<p>Any person who is injured in person or property by any intoxicated individual has a cause of action against any person licensed to sell alcoholic liquor who by selling or giving alcoholic liquor caused the intoxication of the individual. Note: the intoxicated individual or their relatives do not have a cause of action against the licensee. Licensees are required to purchase Dram Shop Insurance</p>
<p>Miscellaneous</p>	<p>Source: 235 ILCS 5/612 from Ch. 43, par. 127a Sec.6-12</p>	<p>No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches or drinks for such minors.</p>
	<p>Direct Shipment of Wine from Producers to Consumers Source: 235 Ill Comp. Stat. 5/5-1(r) &</p>	<p>Allows in-state and out of state manufacturers of wine to ship wine directly to consumers: Age verification is required at the</p>

	235 Ill Comp. Stat. 5/6-16(a)(ii) & 235 Ill Comp. Stat. 5/6-29	time of delivery, the shipper must obtain an Illinois State Liquor License and any wine shipped must be clearly labeled in packaging that denotes it contains alcohol
Illinois Laws Addressing Third Party Social Providers	Furnishing Alcohol to Minors Source: 235 Ill Comp. Stat. 5/6-16(a)(iii)	No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver said alcoholic liquor to anyone under the age of 21 years. Note: Applies to a minor furnishing to a minor as well
	Sale without a license Source: 235 Ill Comp. Stat. 5/10-1(a)	Any person who manufactures, imports for distribution, or sells alcoholic liquor at any place within the State is required to obtain a valid license to do so. First offense is a business offense subject to a fine not to exceed \$1000. Subsequent offenses are Class 4 Felonies
	Sale/Furnishing of a False Identification Source: 235 Ill Comp. Stat. 5/6-16(a)	Any person who sells, gives or furnishes to anyone under the age of 21 any false identification is guilty of a Class A Misdemeanor
	House Parties Parents-Prohibited Source: 235 Ill Comp. Stat. 5/6-16(a-1)	It is unlawful for any parent or guardian to knowingly permit his residence to be used for an invitee of the parent's child if the invitee is under the age of 21 Note: It is a Class A misdemeanor; however, if great bodily harm or death occurs to any person as a result of violating this section then the subject violating this section is Guilty of a Class 4 Felony
	House Parties General – Prohibited Source: 235 Ill Comp. Stat. 5/6-16(iii)(a1-c)	A person is guilty of a Class A misdemeanor when they knowingly permit a gathering at a residence they own or occupy by individuals under the age of 21 and those under 21 are in possession of or consuming alcoholic beverages or a person

		under the age of 21 leaves the residence in an intoxicated condition
	Hotel/Motel Parties Source: 235 Ill Comp. Stat. 5/6-16(iii)(a-1-d) & 235 Ill Comp. Stat. 5/6-21	Any person who rents a hotel or motel for the purpose or with the knowledge that the room will be used for the consumption of alcoholic liquor by persons under 21 years of age is guilty of a Class A Misdemeanor. Note: Also allows for a civil cause of action if injury to property or person occurs
	Places of Nuisance Source: 235 ILCS 5/9-15 & 235 ILCS 5/10-7	Any location where alcohol is sold or disposed of in violation of the Liquor Control Act can be declared a nuisance and thereby abated as provided by State laws pertaining to abatement proceedings (This law could assist with underage drinking parties)
Illinois Laws Targeting Minors and Driving	Zero Tolerance Law: BAC Limits: Youth (Underage Operators of Noncommercial Motor Vehicles) Source: 625 ILCS 5/11 501.8	Zero Tolerance law provides for suspension of driving privileges of a person under the age of 21 who drives after consuming alcohol. BAC limit: 0.00 Any detectable alcohol in the blood is <i>per se</i> (conclusive) evidence of a violation
	Transportation or Possession of Alcoholic Liquor in a Motor Vehicle Source: 625 Ill Comp. Stat. 5/11-502	No driver may transport, carry, possess or have any alcoholic liquor within the passenger area of the motor vehicle except in the original container with the seal unbroken Exceptions: limousines, chartered buses and motor homes
	Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose Laws”)	Use/lose penalties apply to minors under age 21. Type(s) of violation leading to driver’s license suspension, revocation, or denial:

	<p>Source: 235 Ill Comp. Stat. 5/6-16, 20 625 ILL Comp. Stat. 5/6-208 &206 Ill Admin. Code tit. 92,s. 1040 34</p>	<p>Underage purchase Underage possession Underage consumption</p> <p>Authority to impose driver's license sanction: Discretionary</p> <p>Length of suspension/revocation: Minimum: 0 days Maximum: 365 days</p>
	<p>Graduated Driver's License Source: 625 ILCS 5/6-107</p>	<p>Learner stage Minimum entry age: 15 Minimum learner stage period: 9 months Minimum supervised driving requirement: 50 hours—10 of which must be at night</p> <p>Intermediate stage Minimum age: 16 Unsupervised night driving: Prohibited after 10 p.m.—11 p.m. on Friday and Saturday Primary enforcement of the night driving rule</p> <p>Passenger restrictions exist: No more than one passenger under 20, except for siblings and children Primary enforcement of the passenger restriction rule</p> <p>License stage Minimum age to lift restrictions: 18 Passenger restrictions expire 12 months after issuance of license Unsupervised night driving restrictions remain until age 18</p>
		<p>Beverage Service training for</p>

	<p>Beverage Service Training Source: 235 ILCS 5/6-27</p>	<p>alcohol retailers is voluntary and not required by law. Applies to both on-sale and off-sale establishments. The law does not specify new or existing outlets</p>
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Illinois State Statutes Regarding Underage Drinking

The following information is designed to highlight Illinois State Statutes which may be utilized to effectively address underage drinking issues within your communities. Additionally, it will identify potential strategies which have been identified as best practice, as well as present concepts which may be ripe for new legislation. The majority of these laws can be found within Chapter 235 of the Illinois Compiled Statutes (ILCS) commonly referred to as the *Liquor Control Act of 1934* or the *Illinois Vehicle Code at 625 of the Illinois Compiled Statutes*.

The laws have been separated into four main categories:

- Laws which address the minor and their individual behavior in general
- Laws addressing commercial vendors of alcoholic beverages
- Laws addressing third party social suppliers of alcoholic beverages to minors
- Laws which address minors' use and/or consumption of alcohol in relation to the operation of motor vehicles.

In some instances a citation to a specific law will be found in more than one category. This is attributable to the fact that the law as written may address more than one topic. Unless otherwise noted, when the term "minor" is used it refers to anyone under the age of twenty-one (21) years of age.

It should be noted that due to the nature of the Illinois system, which allows for certain levels of cities and counties to enact their own liquor codes, this document should not be construed as a comprehensive document. Many cities and counties have chosen to adopt their own liquor code and often choose to defer to it when addressing underage drinking issues within their communities. Consequently, you should take the opportunity to familiarize yourself with your community's local liquor code and its application within your community.

Additionally, it should be noted that this information is presented for educational purposes only. This should not replace specific legal advice about your particular situation and should not be regarded as legal advice. You should always consult your local prosecutor regarding the application of any law within your community.

Illinois Laws Addressing Minors and Alcohol in General

The following are a number of state statutes that can be applied when dealing with minors and underage drinking issues ranging from the attempt to purchase and the possession of alcohol to the use and/or possession of fraudulent identification:

PURCHASE/POSSESSION/CONSUMPTION

Underage Purchase of Alcohol

Transfer, Possession and Consumption of Alcoholic Liquor – Restrictions:
235 ILCS 5/6-20(a) & (d) No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this Section

Exemptions: Youth may purchase for law enforcement purposes during a Compliance Check Operation—Note in Illinois: retailers can conduct their own compliance checks with written approval from the liquor commissioner.

Best Practice: Include minor attempts to purchase alcohol in laws restricting minor access. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Considerations: May wish to strengthen the language of the statute to clearly state the attempt to purchase is illegal and the sale need not be consummated.

Limitations: With respect to compliance checks, officers who conduct compliance check operations are required to receive training on the proper protocols for compliance checks as established by the Illinois Law Enforcement Training Standards Board.

Possession of Alcohol by a Minor

Transfer, Possession and Consumption of Alcoholic Liquor – Restrictions:
235 ILCS -5/6-20(a) Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase, or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession.

Note: Possession is also addressed in 235 ILCS 5/16-16(a) as it relates to possession in specific locations such as in schools, hotels and motels and will be addressed later in this section.

Exceptions: The possession and dispensing or consumption by a person under the age of 21 in the performance of a religious service or ceremony or the consumption by a person under 21 years of age under the direct supervision of their parent or legal guardian in the privacy of a home.

Best Practice: Prohibit possession by minors (unless incidental to employment) in public and private locations. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Limitations: Illinois law allows for minors to consume alcohol with the consent of and in the presence of a parent in a residence.

Consumption of Alcohol by a Minor

Transfer, Possession and Consumption of Alcoholic Liquor – Restrictions:
235 ILCS 5/6-20(e) The consumption of alcoholic liquor by any person under 21 years of age is forbidden

Exceptions: The possession and dispensing or consumption by a person under the age of 21 in the performance of a religious service or ceremony or the consumption by a person under 21 years of age under the direct supervision of their parent or legal guardian in the privacy of a home.

Best Practice: Ban consumption of alcohol by minors. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Considerations: Although the minimum legal drinking age is 21, Illinois law allows minors to consume alcohol in a private residence with parental approval. This allows for mixed messages to youth regarding the possession and consumption of alcohol under the age of 21. Additionally, the language of the statute does not explicitly prohibit internal possession. While consumption is prohibited, consumption is not adequately defined (e.g. must a law enforcement officer observe the actual consumption, must a sample of the product be seized and analyzed to ensure the drink meets the statutory definition of alcoholic liquor etc...)

In recent years, a number of States have passed laws prohibiting the “internal possession” of alcohol by persons less than 21 years of age. These provisions typically require evidence of alcohol in the minor’s body, but do not require any specific evidence of physical possession or consumption. Generally speaking, the laws provide for either officer observation or a detectable BAC level. Internal possession laws are especially useful to law enforcement in making arrests or issuing citations when dispersing underage drinking parties. Internal possession laws allow officers to issue summonses to underage persons who are neither holding nor drinking alcoholic beverages in the presence of law enforcement officers. As with laws prohibiting underage possession and consumption, States that prohibit internal possession may apply various statutory exceptions to these provisions.

Note: If subject is convicted of underage purchase, possession or consumption it will result in a six (6) month minimum suspension of their driver’s license. If placed under court supervision it can be reduced to a three (3) month suspension. See 625 ILCS Illinois Vehicle Code for Suspension parameters relative to driver’s licenses.

FALSE/FRAUDULENT IDENTIFICATION

Misrepresentation of Age: 235 ILCS 5/6-16(a) Any person under the age of 21 years who presents or offers to any licensee, his agent or employee, any written, printed or photo static evidence of age and identity that is false, fraudulent, or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure the serving of an alcoholic beverage is guilty of a Class A Misdemeanor.

Misrepresentation of Age: 235 ILCS 5/10 (1) (e) Any person, under the age of 21 years who, for the purposes of buying, accepting or receiving alcoholic liquor from a licensee, represents that he is 21 years of age or over shall be guilty of a Class A misdemeanor.

Possession of a False Identification: 235 ILCS 5/6-16(a) Any person under the age of 21 years who has in his or her possession any false or fraudulent written, printed, or photo static evidence of age and identity is guilty of a Class A Misdemeanor – **See also 625 ILCS 5/6-206(a)(10) Illinois Vehicle Code.**

Use of False Identification Reporting to Secretary of State’s Office: 235 ILCS 5/6-16(a) If a false or fraudulent Illinois driver’s license or Illinois identification card is presented by a person less than 21 years of age to a licensee or the licensee’s agent or employee for the purpose of ordering, purchasing, attempting to purchase, or otherwise

obtaining or attempting to obtain the serving of any alcoholic beverage, the law enforcement officer or agency investigating the incident shall, upon the conviction of the person who presented the fraudulent license or identification, make a report of the matter to the Secretary of State on a form provided by the Secretary of State.

Limitations: Requires a conviction. Any diversion or plea may not trigger the statute. Many officers do not know the law or have the forms to submit for administrative sanction to the Illinois Secretary of State. See also 625 ILCS Illinois Vehicle Code.

Use of false Identification Reporting to Secretary of State's Office: 235 ILCS 5/6-16.2 If a false or fraudulent Illinois driver's license or Illinois Identification card is presented by a person less than 21 years of age to a licensee or the licensee's agent or employee for the purpose of obtaining entry and remaining on a licensed premises, the law enforcement officer or agency investigating the incident shall, upon the conviction of the person who presented the fraudulent license or identification, make a report of the matter to the Secretary of State on a form provided by the Secretary of State

Limitations: Requires a conviction. Any diversion or plea may not trigger the statute. Many officers do not know the law or have the forms to submit for administrative sanction to the Illinois Secretary of State. See also 625 ILCS Illinois Vehicle Code.

Sale/Furnishing of a False Identification: 235 ILCS 5/6-16(a) Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photo static evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of 21 years evidence of age and identification of any other person is guilty of a Class A Misdemeanor.

Manufacture Fictitious or Unlawfully Altered Identification Card: 15 ILCS 335/14A(b)(9) Illinois Identification Card Act - It is a class 4 felony to knowingly manufacture, possess, transfer or provide any identification document whether real or fictitious for the purpose of obtaining a fictitious identification card.

Obstructing Identification: 720 ILCS 5/31 4.5 A person commits the offense of obstructing identification when he or she intentionally or knowingly furnishes a false or fictitious name, residence address or date of birth to a peace officer who has:

1. Lawfully arrested the person;
2. Lawfully detained the person; or
3. Requested the information from a person that the peace officer has good cause to believe is a witness to a criminal offense

Note: It is NOT an offense to refuse to provide any information.

Best Practice: Many young people use false identification to purchase alcohol. False identification is easily obtained from many sources, including a host of Internet sites offering false identification as a "novelty" item. Interestingly, despite the prevalence of false identification, young people report that they use them infrequently to purchase alcohol. As enforcement of laws against sales to minors becomes more vigorous, however, use of false identification may become more frequent. The design of identification cards can help mitigate the problem of false identification. Many states now make the identification of minors distinctly different from that of adults so that the birth date cannot easily be altered and so that sellers of alcohol need not calculate age. In addition, some states now use identification cards with key information (name, birth date, address, etc.) encoded so that it can be read with special equipment. Such a system should be no more difficult or expensive to install and use than the ubiquitous card readers for credit cards.

Prohibit the production, distribution, and use of false or altered identification. Increase the use of identification that can be scanned using an electronic card reader and encourage or require scanning by merchants. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Limitations: Illinois law prohibits the manufacture, distribution and use of false or altered identification. Illinois law does not require scanning by merchants.

Considerations: Some states mandate carding of subjects for alcoholic beverage purchases and some jurisdictions and or businesses voluntarily require the use of identification scanning machines. However, the use of identification scanning machines does not negate the need for employees to verify that the scanned identification belongs to the person displaying it. In many circumstances youth will borrow otherwise valid identification from friends or siblings which will scan appropriately. It is imperative if identification scanning devices are used, they are only one step in the identification process and employees should be taught proper identification procedures.

Miscellaneous Charges

Action Against a minor: 235 ILCS 5/6-16(a) If a licensee or officer, associate, member, representative, agent, or employee of the licensee is prosecuted under 235ILCS 5/6-16(a) for selling, giving, or delivering alcoholic liquor to a person under the age of 21 years, the person under 21 years of age who attempted to buy or receive the alcoholic liquor may be prosecuted pursuant to Section 6-20 of the Liquor Control Act.

Exceptions: If the person under 21 years of age was acting under the authority of a law enforcement agency, the Illinois Liquor Control commission, or a local liquor control commissioner pursuant to a plan or action to investigate, patrol or conduct any similar enforcement action – commonly referred to as compliance checks.

Possession on a Street Highway: 235 ILCS 5/6-16(a)(1)(a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a class B misdemeanor.

Exceptions: The section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his parent or in pursuance of his or her employment.

Considerations: – Should minors be allowed to make delivery of a product they are not allowed to consume? This may create an environment which is tempting to the youth. Many states require those delivering alcohol to be twenty-one (21) years of age.

Possession on School Property: 235 ILCS 5/6-16(e) Any person who has alcoholic liquor in his or her possession on public school district property on school days or at events on public school district property when children are present is guilty of a petty offense.

Exceptions: If the alcoholic liquor is (i) in the original container with the seal unbroken and is in the possession of a person who is not otherwise legally prohibited from possessing the alcoholic liquor (ii) is in the possession of a person in or for the performance of a religious service or ceremony authorized by the school board.

Illinois Laws Applicable to Commercial Vendors of Alcoholic Beverages

The main statute which address the responsibilities of commercial vendors of alcoholic beverages with regard to minors for both on-premise and off premise accounts can be found at: **235 ILCS 5/6-16 Sales to and Possession by Persons under 21, Intoxicated Persons-proof of Identity and Age-Gatherings where one or More Persons are under 18-Violations and Penalties – Renting Hotel or Motel Rooms** (Note, applies to any liquor license holder in Illinois e.g., liquor stores, convenience stores, bars, restaurants etc.)

Sale to a Minor Prohibited: - **235 ILCS 5/6-16(a)(i)** No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of 21.

Delivery to a Minor Prohibited: – **235 ILCS 5/6-16(a)(ii)** No express company, common carrier, or contract carrier nor any representative, agent, or employee on

behalf of an express company, common carrier or contract carrier shall cause to knowingly be delivered to any residential address any alcoholic liquor without first obtaining a signature at the time of delivery from an adult that is at least 21 years of age.

Age of entry to a bar: 235 ILCS 5/6-16.2 A municipality or county may prohibit a licensee or any officer, associate, member, representative, agent, or employee of a licensee from permitting a person under the age of 21 years to enter and remain in that portion of a licensed premises that sells, gives, or delivers alcoholic liquor for consumption on the premises. **See also: 235 ILCS 5/4-1 Jurisdiction over Retail Selling in City Councils, Boards of Trustees and County Boards - Minors**

Sale to the intoxicated individual: 235 ILCS 5/6-16(a)(i) No licensee nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any intoxicated individual.

Action against a minor: 235 ILCS 5/6-16(a) If a licensee or his employee or agent is prosecuted under 235 ILCS 5/6-16(a) for selling, giving, or delivering alcoholic liquor to a person under the age of 21 years, the person under 21 years of age who attempted to buy or receive the alcoholic liquor may be prosecuted pursuant to Section 6-20 of this act, unless the person under 21 years of age was acting under the authority of a law enforcement agency, the Illinois Liquor Control Commission or a local liquor control commissioner.

Furnishing alcohol to minors: 235 ILCS 5/6-16(a)(iii) No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of 21 years – even applies to a minor furnishing to a minor see The People of The State of Illinois v. Jenna M. Christopherson Illinois Supreme Court November 2008 Docket No 105927.

Alcopops: 235 ILCS 5/6-35(b) No entity may advertise, promote, or market any alcopop beverages toward children (1) No use of cartoons and youth-orientated photos (2) No sponsorship of athletic events where the intended audience is primarily children (3) No billboards within 500 feet of schools, public parks, amusement parks and places of worship (4) No display of any alcopop in any video game, theater production, or other live performances where the intended audience is primarily children.

Duty to refuse sale absent adequate written evidence: 235 ILCS 5/6-16(a) For purposes of preventing the violation of this section any licensee or his agent or employee, or a representative, agent or employee of an express company, common carrier, or contract carrier that carries or transports alcoholic liquor for delivery within this State, shall refuse to sell, deliver or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 21 years, if requested by the licensee, agent, employee or representative.

Limitations: Asking for identification is discretionary; no statutory mandate to card anyone for alcoholic beverage purposes.

Affirmative defense for licensee: 235 ILCS 5/6-16(a) Proof that the defendant-licensee, or his employee or agent ...demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this section is an affirmative defense in any criminal prosecution therefore or to any license based thereon. It shall not, however, be an affirmative defense if the agent or employee accepted the written evidence knowing it to be false or fraudulent.

Actions for Damages Caused by Intoxication (Dram Shop): 235 ILCS 5/6-21(a) Every person who is injured within this State, in person or property, by any intoxicated person has a right of action in his or her own name, severally, or jointly, against any person, licensed under the laws of this State or of any other state to sell alcoholic liquor, who, by selling or giving alcoholic liquor, within or without the territorial limits of this State causes the intoxication of such person.

An employee or owner of an establishment may be held liable for damages to third parties which resulted from the unlawful selling, giving or delivery of alcohol in that establishment to a minor, intoxicated person or person known to be under legal disability or in need of mental treatment.

Amounts Increase and/or decrease based upon a percentage equal to the percentage change in the consumer price index-u during the preceding 12 month calendar year. The amount of insurance required is posted annually on the Illinois Liquor Control Commission's website.

Exceptions: - The intoxicated person has no cause of action. No cause of action for loss of means of support on the intoxicated person himself or on any person claiming to be supported by such intoxicated person.

Dram Shop Insurance: 235 ILCS 5/6-2(a)(18) Requires a person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises to carry liquor liability insurance coverage for the premises in an amount which is at least equal to the maximum liability amounts set forth in subsection(a) of Section 6-21

Amounts Increase and/or decrease based upon a percentage equal to the percentage change in the consumer price index-u during the preceding 12 month calendar year. The amount of insurance required is posted annually on the Illinois Liquor Control Commission's website.

Employment of Minors: 235 ILCS 5/4-1 Jurisdiction over Retail Selling in City Councils, Boards of Trustees and County Boards- Minors The Illinois Liquor Control Act allows for locals to set the age of service for both on premise and off-

premise accounts subject to the guidelines set forth in the Administrative Code **Title 11: Alcohol, Horse Racing, and Lottery.**

Subtitle A: Alcohol Chapter 1: Illinois Liquor Control Commission Part 100

The Illinois Liquor Control Commission Section 100.20- Employment of

Minors-In the sale, distribution or delivery of alcoholic liquors, no retail alcoholic liquor licensee may employ, with or without compensation, or in any way directly or indirectly, use the services of a minor. (Source: amended at 20 Ill. Reg. effective 1, 1994)

“Minor” means a person under 18 years of age. See Title 11 Section 100.10 Definitions and (A.G. Opinion No. S-672 12/27/73)

Best Practice: Research indicates that underage sellers and servers have a harder time refusing sales to underage buyers and are more likely to misjudge the customer's age, make exceptions for friends, and respond to pressure from peers. Require that all retail alcohol outlet employees who are engaged in the sale or service of alcohol be at least 21 years of age. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Limitations: Illinois law allows for an 18 year-old to serve or sell alcohol at both on premise and off-premise accounts.

Considerations: Local communities have the option to increase the minimum age to sell or serve. Some local communities have increased the age a person serving/selling alcohol must be. May wish to consider statewide legislation to raise the age and/or limit the functions of servers/sellers who are under the age of Twenty-one (21).

Direct Sales/Shipments of Wine from Producers to Consumers: 235 ILCS

5/5-1(r) Licenses issued by Illinois Liquor Control commission-Winery

Shipper’s License – Allows in-state and out of state wine manufacturers to ship wine directly to a resident of the state of Illinois who is 21 years of age or older for personal use but not for resale.

Illinois Law: Direct sales/shipments from producers to consumers are permitted for wine with the following restrictions:

Age verification requirements: The common carrier or shipper who is used to deliver the product is required at time of delivery to obtain a signature of a person 21 years of age or older at the delivery address at the time of delivery. **See - 235 ILCS 5/6-16(a) (ii) & 235 ILCS 5/6-29**

State approval/permit requirements: Producer/shipper must obtain a State permit and are subject to the Illinois Liquor Laws and the authority of the Illinois liquor Control Commission See **235 ILCS 5/5-1(r)**

Label requirements: Product must be clearly labeled with the following statement – “Contains alcohol. Signature of a person 21 years of age or older required for delivery. Proof of age and identity must be shown before delivery.” See **235 ILCS 5/6-29**

Best Practice: Regulate home delivery and Internet/ mail-order sales. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011) Prohibit home delivery of alcohol, and either prohibit or strictly regulate Internet/mail-order alcohol sales.

Considerations: Illinois law does not have age verification requirements at time of order for telephone or internet sales. Age verification is subject to the various protocols of each company. This can allow for minors to order and purchase alcohol. Stricter age verification requirements would, in theory, decrease the ability of minors to purchase wine with few restrictions.

Other Areas of Consideration for Commercial Vendors of Alcoholic Beverages

Administrative Sanctions against the Vendor

Best Practice: Impose strict administrative penalties on retail licensees for violation of sales to minors. The violation of laws against sales to minors can lead to both administrative and criminal penalties. Administrative penalties affect the retailer's state and/or local operating license. Criminal penalties are levied against the individual committing the violation and may include fines and imprisonment. Most experts recommend an emphasis on administrative penalties for a number of reasons. The advantages of administrative penalties include:

- Administrative penalties can create a credible threat, thus enhancing their deterrence value.
- Administrative processes don't rely on traditional rules of evidence and have a more lenient standard of proof (preponderance of evidence, rather than beyond a reasonable doubt).

- Administrative actions can be less complex than criminal penalties; thus they can occur more quickly and with more certainty. It should be noted that swiftness and certainty of consequences are keys to deterrence.
- Administrative penalties hold the licensee responsible rather than the clerk, who may be young, inexperienced, poorly trained, poorly paid, and poorly supervised. The licensee, rather than the clerk, is in the best position to prevent future violations.
- To be effective, administrative penalties should impose real costs on the violator, with increases in severity for repeat offenses. While penalties should be significant, it is important that they not be too severe, especially for first offenses. Law enforcement and licensing officials are less likely to impose penalties if the punishment is perceived as out of proportion to the seriousness of the offense. Some states report that imposing penalties has become a more difficult and protracted process in recent years. Because the suspension of the license is such a powerful tool, some licensees have become more aggressive in fighting sanctions. It is important that law enforcement agents recognize the importance of following through on the process.

Impose strict administrative penalties on retail licensees for violation of sales of alcohol to minors. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol ,2011)

Retail Beverage Service Training:

Illinois Law: Provides for a voluntary server training program known as BASSET which is available to both on-sale and off-sale establishments. The state sets the minimum components of a certifiable program. The state then issues licenses to third party providers to teach responsible beverage service throughout the state. These providers can charge a fee for their services and the quality of the program can vary from company to company and trainer to trainer.

Best Practice: Mandate responsible beverage service programs. Initiate, and over time, mandate responsible beverage service programs designed in conjunction with compliance checks and other policy interventions. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Limitations: Mandatory Beverage Service Training laws do not exist at the state level. Some communities in Illinois have passed municipal or county law requiring mandatory beverage server training.

Considerations: The benefit to a state-level mandatory beverage server training would be to provide consistency in education and training to all alcohol beverage servers state-wide. Sellers and servers of alcohol can be more cooperative and effective in reducing underage drinking if they are well informed about their responsibilities, the importance of adherence to the law, potential consequences for violation of the law, and the skills and techniques they need for avoiding sales to minors. In addition, responsible beverage service training programs may reduce problems associated with over-service issues in the adult population.

Statutes Applicable to Third Party Social Providers

Furnishing alcohol to minors: 235 ILCS 5/6-16(a) (iii) No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to another person under the age of 21 years – even applies to a minor furnishing to a minor see *The People of The State of Illinois v. Jenna M. Christopherson* Illinois Supreme Court November 2008 Docket No 105927.

Sale without a license: 235 ILCS 5/10-1(a) Any person who manufactures, imports for distribution or use, or distributes or sells alcoholic liquor at any place within the state without having first obtained a valid license to do so under the provisions of this Act shall be guilty of a business offense and fined not more than \$1000 for the first such offense and shall be guilty of a class 4 felony for each subsequent offense.

Sale/Furnishing of a False Identification: 235 ILCS 5/6-16(a) Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photo static evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of 21 years evidence of age and identification of any other person is guilty of a Class A Misdemeanor.

House Parties Parents: 235 ILCS 5/6-16(a-1) It is unlawful for any parent or guardian to knowingly permit his or her residence to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under the age of 21.

A parent is deemed to have knowingly permitted his or her residence to be used in violation of this Section if he or she knowingly authorizes, enables or permits consumption of alcoholic liquor by underage invitees.

Any person who violates this subsection is guilty of a Class A misdemeanor. If great bodily harm or death occurs to any person as a result of violating this subsection then the subject violating this subsection is Guilty of a Class 4 felony.

Exceptions: – Religious ceremony or service in observation of a religious holiday.

House parties general: 235 ILCS 5/6-16 (iii)(a-1-c) Any person shall be guilty of a Class A misdemeanor where he or she knowingly permits a gathering at a residence which he or she occupies of two or more persons where any one or more of the persons is under 21 years of age, the following factors also apply:

1. The person occupying the residence knows that any such person under the age of 21 is in possession of or is consuming any alcoholic beverage; and
2. The possession or consumption of the alcohol by the person under 21 is not otherwise permitted by this Act; and
3. The person occupying the residence knows that the person under the age of 21 leaves the residence in an intoxicated condition.

Limitations: Illinois does not have a general Social Host Law which statutorily authorizes a civil cause of action, a civil penalty or cost recovery. Current law provides for criminal sanctions if a parent or host knowingly permitted the consumption of alcohol by minors, but it does not specifically provide for cost recovery, civil penalties or a civil cause of action. Civil liability may attach via general tort principles or court opinions. Some municipalities in Illinois have adopted social host ordinances which do provide for civil penalties and cost recovery for law enforcement services required to respond to the party.

Best Practice: All states restrict a minor's ability to obtain alcohol through noncommercial sources, although most statutes provide exceptions, particularly for parents, spouses, and guardians. As these exceptions suggest, many states are reluctant to invade the privacy of the parent-child and marital relationships. The President's Commission on Model State Drug Laws, however, is against these exceptions because it "sends mixed and confusing signals to parents and youths alike that underage drinking is tolerable under certain circumstances." If the state chooses to include an exception, it should be carefully crafted so that it does not undermine enforcement of teen drinking parties in private residences.

Research has not been carried out on the effects of these laws, but findings about where young people obtain alcohol would imply that in order to be effective in reducing adult provision of alcohol, appropriate laws should be in place. Moreover, the State should

provide public awareness programs to educate parents and other potential adult providers of their responsibilities and the possible consequences of violations. Restrict noncommercial furnishing of alcohol to minors. Prohibit any person from furnishing alcohol to a minor, with minimal exceptions. Carry out a vigorous public awareness campaign to educate parents and other adults about the law.

Considerations: Seek Social Host Legislation at the State level that provides for civil penalties, cost recovery and/or civil causes of action against those who host underage drinking parties. Implement a state-wide public awareness campaign that provides education and public awareness about not furnishing alcohol to minors and the consequences associated with doing so.

Hotel parties: 235 ILCS 5/6-16(iii)(a-1-d) Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of 21 years shall be guilty of a Class A misdemeanor.

Civil Liability: 235 ILCS 5/6-21 Additionally, Any person at least 21 years of age who pays for a hotel or motel room or facility knowing that the room or facility is to be used by any person under 21 years of age for the unlawful consumption of alcoholic liquors and such consumption causes the intoxication of the person under 21 years of age, shall be liable to any person who is injured in person or property by the intoxicated person under 21 years of age.

Other Areas of Consideration for Third Party Providers

Keg Registration

Illinois Law: Illinois does not have a keg registration law.

Best Practice: Keg registration laws require special requirements for the sale and purchase of beer kegs. Keg registration, although not thoroughly evaluated, is a strategy that has worked in many states or local communities to reduce the social availability of alcohol by minors. In the only study on the effectiveness of these laws, keg registration was shown to be associated with reduced traffic fatality rates in 97 U.S. communities (Cohen, Mason, & Scribner, 2001).

Implement beer keg registration. Enact beer keg registration laws that apply to beer containers of 4 gallons or larger; require a minimum \$50 deposit and technology that deters identification tag removal. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Considerations: Keg registration regulations reduce the availability of this form of alcohol to underage drinkers. They require retailers to identify kegs with a tag, sticker, or other form of identification. At purchase, the retailer requires a deposit and records the purchaser's name, address, and other identifying information. Some municipalities in Illinois have passed keg registration. Passing a state law on keg registration would provide consistent policy and regulation on the sale of kegs and assist law enforcement if/when they confiscate a keg at a teen party to easily trace the purchaser and impose appropriate sanctions. When drafting any such legislation, consideration should be given to ease of implementation on the part of retailers and/or wholesalers who will be required to assist with the implement of any such law.

Illinois Laws Targeting Underage Drinking and Driving

BAC Limits: Youth (Underage Operators of Noncommercial Motor Vehicles): Three standards may apply:

Driving Under the Influence - BAC .08: – 625 ILCS 5/11-501(a) (1) **Limitation:** Requires a blood, urine or breath test to establish one's BAC is above the legal limit. Testing procedures may be time consuming and in some instances unavailable as a result of resources in some smaller communities

Driving Under the Influence: 625 ILCS 5/11-501(a) (2)

Limitation: Based upon officer's observations. No blood, urine or breath test is required. **Driving Under the Influence Zero Tolerance:** -625 ILCS 5/11-501-8

BAC limit: 0.00 Zero tolerance provides for suspension of the driving privileges of any person under the age of 21 who drives after consuming alcohol. Like the name zero tolerance suggests, any trace of alcohol in a young person's system can result in a suspended driver's license. There are exceptions -- minors who consume alcohol as part of a religious service or those who ingest a prescribed or recommended dosage of medicine containing alcohol. The Zero Tolerance Law provides that minors can have their driving privileges suspended even if they're not intoxicated at the .08 level.

Best Practice: Zero-tolerance laws set a maximum BAC of .02 or less for drivers under 21. Violators have their driver's licenses suspended or revoked. There is strong evidence that zero-tolerance laws reduce alcohol-related crashes and injuries (Jones & Lacey, 2001; NCHRP, 2005, Strategy B3; Shults et al., 2001). Best practice would prohibit minors with any measurable blood alcohol level from driving a motor vehicle; authorize immediate seizure of the young offender's driver's license at the scene of arrest as part of

an administrative license revocation procedure. (PIRE, Regulatory Strategies for Preventing Youth Access to Alcohol, 2011)

Limitations: Illinois law provides for suspension of driving privileges for Zero Tolerance violations. Illinois law also has a BAC limit of 0.00. Many officers fail to test or detect low levels of alcohol in youth drivers and thus many offenders may not be charged under the zero tolerance provisions.

Youthful Intoxicated Driver's Visitation Program: 625 ILCS 5/11-501(7)(a)

Allows the court as a condition of probation or discharge of someone under 21 years of age who was convicted a driving offense under the statute to require the youth to visit one of the following facilities:

1. A rehabilitation facility that cares for individuals injured as a result of a crash involving alcohol
2. A facility that treats and cares for alcoholics
3. The coroner's office

Transportation or possession of alcoholic liquor in a motor vehicle: 625 ILCS 5/11-502

- a.) Except as provided in paragraph (c) no driver may transport, carry, possess or have any alcoholic liquor within the passenger area of the motor vehicle upon a highway in this state except in the original container and with the seal unbroken.
- b.) Except as provided in paragraph (c) no passenger may transport, carry, possess or have any alcoholic liquor within the passenger area of the motor vehicle upon a highway in this state except in the original container and with the seal unbroken.
- c.) The section shall not apply to the passengers in a limousine when it is being used for purposes for which a limousine is ordinarily used, the passengers on chartered bus when it is being used for purposes for which chartered buses are ordinarily used or on a motor home or mini motor home as defined in section 1-145.01 of this code. The driver of any such vehicle is prohibited from consuming or having any alcoholic liquor in or about the driver's area.
- d.) Any driver who is less than 21 years of age at the date of the offense and who is convicted of a violation of section (a) of this section or a similar provision of a local ordinance shall be subject to the loss of driving privileges see

paragraph 13 of subsection(a) of section 6-205 of this code and paragraph 33 of subsection (a) of section 6-206 of this code.

Other Areas of Consideration for Youth and Driving

It is well established that driving is a privilege granted by a state and not a right. Many youth have expressed that an impactful sanction would be the suspension or limitation of their driving privileges as a result of alcohol related offenses. Toward that end, the State of Illinois has implemented two sets of laws that if applied appropriately may impact youth's decisions to consume alcoholic beverages.

Loss of Driving Privileges for Alcohol Violations by Minors (“Use/Lose Laws”) 625 ILCS Illinois Vehicle Code

Illinois Law: Use/lose penalties apply to minors under age 21. Type(s) of violation leading to driver's license suspension, revocation, or denial:

- Underage purchase
- Underage possession
- Underage consumption

Best Practice: These laws allow confiscation of the driver's license or postpone licensure for a period of time for youth who violate a State's MDA-21 law. In the only study to date, Ulmer et al. (2001) investigated “use and lose” law implementation and effects in Missouri and Pennsylvania. Missouri suspended the driver's licenses of most youth arrested for DWI but rarely suspended the licenses of youth who violated the MDA-21 law by drinking but not driving. Pennsylvania, in contrast, applied the “use and lose” law to violations of the MDA-21 both for youth arrested while driving and youth arrested while not driving. Pennsylvania's “use and lose” license suspensions appeared to reduce subsequent traffic violations and crashes. “Use and lose” laws can be implemented quickly and inexpensively once enacted. To be effective, they should be publicized extensively. As of 2006, 29 States have “use and lose” laws and another 10 States and the District of Columbia have “use and lose” authority that may be applied in varying circumstances (NHTSA, 2006d).

Limitations: Use and lose laws in Illinois have been publicized widely. Authority to impose falls to the local jurisdiction and is discretionary. Often there is no follow through on the part of the officer or the court chooses a diversion program and the suspension can be reduced or avoided.

Graduated Driver's License: 625 ILCS 5/6 Article 1 issuance of Licenses: Expiration and Renewal

Illinois Law: Illinois has graduated licensing and does not allow for full driving privileges until the age of 18 assuming the subject has an unblemished driving record at that point. Violations of traffic laws and liquor laws can delay an individuals' ability to receive full driving privileges.

Learner stage

Minimum entry age: 15

Minimum learner stage period: 9 months

Minimum supervised driving requirement: 50 hours—10 of which must be at night

Intermediate stage

Minimum age: 16

Unsupervised night driving:

Prohibited after 10 p.m.—11 p.m. on Friday and Saturday

Primary enforcement of the night driving rule

Passenger restrictions exist:

No more than one passenger under 20, except for siblings and children

Primary enforcement of the passenger restriction rule

License stage

Minimum age to lift restrictions: 18

Passenger restrictions expire 12 months after issuance of license

Unsupervised night driving restrictions remain until age 18

Best Practice: Teenage drivers have the highest crash risk per mile traveled, compared with drivers in other age groups. Young drivers tend to overestimate their driving abilities and underestimate the dangers on the road. Graduated driver licensing (GDL) laws reduce this risk by making sure teens gradually build up driving experience under lower-risk conditions as they mature and develop skills. That means limiting nighttime driving; restricting teen passengers and making sure teens get lots of supervised practice. Graduated licensing has reduced teen crashes 10-30 percent on average. For every state and D.C., the Institute has estimated the effects of strengthening or weakening 5 key GDL provisions: permit age, practice driving hours, license age, and night driving and passenger restrictions. The projections are based on research showing what matters most when it comes to preventing fatal crashes and collision claims among teen drivers. The current best practice is a minimum intermediate license age of 17, a minimum permit age of 16, at least 65 supervised practice hours and during the intermediate stage, a night driving restriction starting at 8 p.m. and a ban on all teen passengers. Research from the Insurance Institute for Highway Safety and the Highway

Loss Data Institute shows that states with the strongest GDL laws have the biggest reductions in fatal crashes and collisions reported to insurers among teen drivers compared to states with weaker GDL laws.

Underage Drinking Resources:

Here is additional information to guide you concerning where to find Illinois- specific laws and ordinances, data and best practices related to underage drinking.

General:

General information on underage drinking, its effects on adolescents, families and communities and what you can do to help stop underage drinking is available at the National Clearinghouse on Alcohol and Drug Information at www.ncadi.samhsa.gov

For underage drinking facts, tips and resources visit www.toosmarttostart.org

For prevention tips, facts and resources for parents and youth (and comprehensive research for communities) visit www.stopalcoholabuse.gov

For information, strategies, tools and resources for youth, families, schools and community organizations on a variety of topics related to underage drinking visit www.findyouthinfo.gov

Substance Abuse and Mental Health Services Administration (SAMHSA):
<http://oas.samhsa.gov/underage.cfm>

For communities:

Surgeon Generals Call to Action at www.surgeongeneral.gov calls for communities to help prevent and reduce underage drinking

The National Institute on Alcohol Abuse and Alcoholism (NIAAA) visit www.niaaa.nih.gov

For information on community problem-solving strategies, coalition development and models on developing a comprehensive plan to address substance abuse and underage drinking visit www.cadca.org

Best Practices and Strategies:

The Underage Drinking Enforcement Training Center at www.udetc.org

For information and resources on best practice steps and a community model to address underage drinking visit www.rand.org

Best practice interventions supporting underage drinking prevention and substance abuse prevention visit at www.nrepp.samhsa.gov

Illinois Specific Laws:

Additional information on Illinois-specific laws related to underage drinking may be found at:

Illinois Liquor Control Commission has laws and penalties related to alcohol at <http://www.state.il.us/lcc/basset/lawsandpenalties.asp?opening=citations>

Illinois General Assembly has information on state legislation and laws at www.ilga.gov
To track current legislation, including pending legislation as introduced, sign up for the legislative tracker at <http://www.ilga.gov/mylegislation/default.asp>

Illinois Data about Underage Drinking and Related Consequences:

Illinois Youth Survey (conducted with 6th, 8th, 10th, 12th Grades) at <http://iys.cprd.illinois.edu>

Illinois Higher Education Center at Eastern Illinois University features training and technical assistance to institutions of higher learning as well as links to the CORE survey results at <http://www.eiu.edu/ihec/>

The Illinois State Police has information about laws and policies on underage drinking and driving, traffic safety and updates to laws relating to enforcement efforts at <http://www.isp.state.il.us/>

The Illinois State Board of Education has information about the state report card and a full school directory at www.isbe.state.il.us/school_info1.htm. The EReport card public site allows for school, district and state report card searches at <http://webprod.isbe.net/ereportcard/publicsite/getsearchcriteria.aspx>

U.S. Department of Transportation, National Highway Traffic Safety Administration (NHTSA), National Center for Statistics and Analysis, Office of Traffic Records and Analysis/DRID: NHTSA maintains county-level maps and summary reports of all motor vehicle crashes. Find Illinois specific information at http://www-nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/STSI/17_IL/2012/17_IL_2012.htm

Illinois Department of Transportation (IDOT) Safety Data Mart Data: IDOT's Safety Data Mart contains crash data collected and submitted by law enforcement agencies and made available for analysis. Data is publically available and users need to request a password to access the data. For more information and to request a password, visit <http://safetydatamart.transportation.illinois.gov/default.aspx>

State Trauma Registry: The Illinois Department of Public health's trauma registry is charged with collecting and reporting trauma related data collected from 65 Level 1 & 2 trauma centers across Illinois on patients who patients who 1) sustain traumatic injuries

that require treatment at a trauma center and are then admitted to a trauma center 2) are transferred to a trauma center; 3) are dead on arrival or die in the emergency department. Visit <http://app.idph.state.il.us/emsrpt/trauma.asp> for more information.

Enhancement or Adoption of Local Policy:

The Alcohol Policy Information System (APIS) provides detailed information on a wide variety of alcohol-related policies in the United States at both State and Federal levels. APIS also provides a variety of informational resources of interest to alcohol policy researchers and others involved with alcohol policy issues. For APIS policy information visit www.alcoholpolicy.niaaa.nih.gov

To search municipalities for specific law information, visit www.municode.org (Some political sub-divisions use Municode as their public source to post ordinances and the user may, or may not, be required to pay a fee. Generally the free codes are visible to anyone who gets on the site. To see all the codes, users may be required to pay a fee to log on.)

Westlaw is an online legal research service for legal and law related materials and services. A fee is required. Visit <http://web2.westlaw.com/signon/default.wl?vr=2.0&fn=top&rs=WLW12.01&bhcp=1>

For information regarding underage drinking policy descriptions and model policies and local ordinances visit www.epi.umn.edu

For tips on how to draft local ordinances and analysis on the role of the law as it relates to public health policy solutions visit The Center for the Study of Law & Enforcement at www.pire.org

For tips on how to formulate a response to issues caused by home parties involving underage drinking or to tips on how to develop a Social Host Liability Ordinance visit www.ca-cpi.org/sig-su

[For information on a model ordinance for mandating BASSET Training go to www.state.il.us/lcc](http://www.state.il.us/lcc)

To view a sample social host ordinance go to www.madd.org/underagedrinking

[For information on developing and enforcing public policy to reduce alcohol, tobacco and other drug use go to www.cprd.illinois.edu/pub](http://www.cprd.illinois.edu/pub) and review [Development and Enforcement of Public Policy to Reduce ATOD Use.](#)

Prevention First Resources:

Since 1980, Prevention First has provided training, technical assistance and resource materials to thousands of schools, community groups, parents and youth on substance abuse prevention. Visit our website at <https://www.prevention.org> for more information about available free trainings and additional online resources.

Online Trainings: can be found at <https://www.prevention.org/Training/Study-Hall/>