



Analysis of strategies designed to reduce sales of alcohol and tobacco to underage persons

A preliminary report

Prepared for the
Alaska Alcoholic Beverage Control Board

by

Marny Rivera, Ph.D.

Khristy Parker, B.A.

JC 1202

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University of Alaska Anchorage


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Executive Summary

This study was requested by the Alaska Alcoholic Beverage Control Board (ABC) which is responsible for enforcing age-of-sale laws. The purpose of the study was to identify ways enforcement practices for alcohol could be modified to achieve higher rates of compliance as are seen in tobacco enforcement.

Following are the key findings.

Key Findings

Consumption:

- Even though Alaska and the U.S. have both seen decreases in adolescent use of alcohol, Alaska has seen larger decreases overall.
- Youth consumption of alcohol and tobacco in Alaska has consistently decreased since 1995.
- Twice as many youth in Alaska self-reported recent alcohol use as reported recent cigarette use. Due to higher youth prevalence rates, controlling underage access to alcohol poses more difficulties than controlling underage access to tobacco.
- Adolescent use of tobacco has been declining consistently, both statewide and nationally. Due to the lack of data for 2011 for the U.S., it is impossible to determine how Alaska compares to national data for the same time. However, based on 2009 data, Alaska has a lower rate of tobacco use than the country as a whole.
- Adult consumption of alcohol in Alaska declined from 2001 until 2008 when it began to increase. Nationwide, adult alcohol consumption has consistently declined since 2001.
- Two to three times as many adults in Alaska consume alcohol as smoke tobacco on a regular basis. As a result of higher adult prevalence rates, youth access to alcohol is likely greater than youth access to tobacco.
- In Alaska, adult consumption of tobacco has consistently decreased since 2001.
- Fewer people are starting to smoke, and those who smoke cigarettes are smoking less regularly.

Compliance Checks:

- Effective compliance checks and enforcement of laws can reduce sales of age-restricted products to minors and are associated with reductions in use of such dangerous substances.
- Compliance checks are a retail enforcement strategy that should be conducted as part of a multi-pronged effort to reduce underage drinking.
- Communication efforts (i.e., via media) to merchants and the community should take place in conjunction with compliance checks.
- Conducting at least two compliance checks per year at all outlets is associated with increased compliance.

- Mandatory photo identification checks at point of purchase for all alcohol sales, and using tools like electronic verification techniques, reduces the likelihood that alcohol will be sold to underage persons.
- Rewards for compliant employees or retail outlets have been associated with increased compliance.
- Ongoing merchant training and education is preferable to one-time training for agents and employees, especially in establishments where alcohol has been sold to underage persons.
- Rates of compliance and violation cannot safely be compared across locations or substances due to differences in compliance checking procedures and computation of results.

Sanctions:

- Graduated sanctions of increasing severity for multiple violations of age of sales laws can deter licensees and their agents and employees from selling alcohol to underage persons.
- Civil penalties are faster, easier, and cheaper to administer than criminal penalties since they do not require prosecution through the court system.
- Civil penalties including license suspensions and fines against licensees can be used in addition to, or instead of, sanctions against individual agents or employees.
- Penalizing licensees for sales of dangerous products to underage persons is more likely to lead to policy and practice changes in hiring, training, and supervision that reduce alcohol sales to minors.

Funding and Resources:

- State statutes are designed to deter sales of alcohol to underage persons by stringently sanctioning violators of this law. Certainty of sanctions is a key element of deterrence.
- State statutes allow for license suspensions and civil financial penalties against licensees whether they or their agents or employees sell alcohol to underage persons. Deterring sales of alcohol to underage persons necessarily requires implementing stringent sanctions not just having them written into law.
- Adequate state funding of compliance checking and other enforcement is essential in order to effectively reduce sales of alcohol to underage persons.
- Food and Drug Administration (FDA) regulations have led to substantially greater federal funding for tobacco enforcement efforts since 1998. Alcohol enforcement efforts have not, and do not, receive the same level of federal funding. The Synar Amendment creates significant motivation to reduce sales of tobacco to underage persons through the risk of losing block grant funding if minimum noncompliance rates are not achieved.
- Licensing fees and financial penalties for violations can be used to fund compliance checks and merchant education efforts.
- Limited resources necessitate effective partnerships with agencies or organization that have a shared desire to reduce underage access to and use of dangerous substances.
- Expanding and building on current partnerships can assist in prevention efforts.

- Partnerships can include federal or state agencies, national non-profit organizations, and local coalitions, among others.
- Partnerships may provide volunteer personnel or staff, educational materials or efforts for merchants, community, and youth, and other resources like funding.

Taxes:

- Alcohol taxes have not kept pace with inflation, resulting in a missed opportunity for funding of important alcohol control policies.
- Higher state alcohol excise taxes reduce consumption, especially by those with less disposable income (i.e., teens) and provide a funding source for prevention and intervention programs within the state.

Key Recommendations:

Based on a careful review of existing literature, Alaska statutes, compliance check practices, sanctions data, and other resources, recommendations are provided for improving compliance with alcohol age-of-sale laws in Alaska. Recommendations are made in the following areas:

- Improving enforcement efforts.
- Enhancing funding and resources for merchant education and compliance check enforcement efforts.
- Developing a multi-pronged underage drinking reduction strategy.
- Collecting data and evaluating enforcement efforts.

See Recommendations and Conclusions starting on page 28 for a complete list of recommendations.

Introduction

This study was requested by the Alaska Alcoholic Beverage Control Board (ABC) which is responsible for enforcing age-of-sale laws. The purpose of the study was to identify ways enforcement practices for alcohol could be modified to achieve higher rates of compliance as are seen in tobacco enforcement.

A comparison was made of compliance check results for tobacco and alcohol in Alaska from 2006 to 2011. The data show a higher compliance rate with laws prohibiting tobacco sales to minors than for alcohol sales to minors for four of the five years (See Table 8.). This gap in compliance between alcohol and tobacco raised the question of whether the severity of the statute, and/or sanctions, for these different age-of-sale laws was the key factor influencing lower violation rates for tobacco. With the ultimate goal of increasing compliance and reducing retail access to alcohol by underage persons, the ABC Board contracted with the UAA Justice Center to conduct a policy analysis to determine how to improve underage alcohol control efforts. This policy analysis sought to answer the following research questions:

- Is the classification and response to tobacco sales to underage persons as a violation (similar to a traffic ticket - rather than a misdemeanor) an influential factor in the rate of illegal sales? What other factors may explain the decrease in tobacco sales to underage persons over time (in Alaska and nationwide)?
- Would changing the classification and response to sales of alcohol to underage persons from a misdemeanor to a violation reduce the number illegal sales and increase compliance?
- What factors influence rates of compliance with laws prohibiting the sale of alcohol and/or tobacco to underage persons?
- How do policies and enforcement efforts designed to reduce underage access to tobacco differ from underage access to alcohol (i.e., effects, agencies responsible, resources, punitive consequences, compliance levels, social forces, etc.)?

The policy analysis is presented in this report. We begin by examining the problems of alcohol and tobacco consumption in Alaska and the U.S. Rates of alcohol consumption in Alaska are higher than the nationwide average and this presents a double-edged problem. First, long-term reductions in adult alcohol consumption and associated consequences likely require the prevention of underage drinking. Second, adults provide alcohol to underage persons through retail and social sources. Higher rates of adult consumption are associated with higher rates of youth access to alcohol.

We next reviewed alcohol and tobacco prevention and intervention efforts at both the federal and state levels to determine how different efforts may have influenced alcohol and tobacco compliance rates and to identify best practices that can be used to increase compliance with age-of-sale laws for alcohol. Compliance checks programs are reviewed to demonstrate that these checks, when conducted by law enforcement and when violations result in sanctions, can reduce access to underage persons and therefore reduce youth consumption. Trend and sanction data for alcohol and tobacco enforcement in Alaska is also presented, since the certainty and severity of sanctions likely influences their ability to deter sales to minors. In this section, funding and

resources, including excise taxes, for alcohol and tobacco are also reviewed to determine if resource disparities affect compliance rates and to identify potential revenue sources.

Lastly, based on a thorough review of directly relevant research studies and Alaska data, recommendations and conclusions are provided regarding enforcement efforts, funding and resources, a multi-pronged underage alcohol prevention strategy, and efforts to gather data for purposes of evaluation.

Alaska is not alone in the need to improve alcohol enforcement efforts. This is a nationwide issue. The ABC Board is to be commended for commissioning this study to identify ways to improve enforcement efforts with the ultimate goal of reducing retail underage access to alcohol, underage drinking, and resulting consequences associated with underage alcohol use in our state.

Problem Statement and Background

According to the Alaska Department of Health and Social Services, Alaska has one of the highest per capita alcohol consumption rates in the nation, and the prevalence of alcohol dependence and alcohol abuse at 14 percent is twice the national average of seven percent.

Of special concern is the prevention of alcohol use by adolescents in the state. Underage use of alcohol has far-reaching effects on local and national levels. The social costs of underage drinking include traffic crashes, crime, physical and mental health issues, and poor performance in school. The economic costs of teenage drinking including law enforcement, health care, education, treatment, and other services increase as resources are diverted to address teenage drinking (Alcohol Epidemiology Program, 2000).

Adult consumption rates are of concern because teens are often able to access alcohol through adults who acquire it legitimately. By lowering adult consumption rates, access to alcohol by teens can be reduced. This is important because research shows that the earlier teenagers start drinking, the more likely they will develop addiction problems as they age. Researchers found that when the drinking age was raised to 21, the rate of alcohol consumption and alcohol-related problems decreased among 18- to 20-year-olds. In addition, those who started drinking later in life drank less and drank less often (Alcohol Epidemiology Program, 2000).

For this report, we examined data from two similar state and national studies – BRFSS and YRBSS - sponsored by the Centers for Disease Control (CDC) about the behavior of adults and adolescents when it comes to alcohol and tobacco use both by Alaskans, and by the country as a whole. This data will help shed light on the gravity of the problem being experienced in Alaska as compared to the rest of the U.S.

Adult Consumption Data

Data about adult consumption of alcohol and tobacco was collected from the Behavioral Risk Factor Surveillance System (BRFSS) which is a state-based system of surveys that collect

information on various behaviors that contribute to health risks and injury. The following information is data collected about adult use of alcohol and tobacco from BRFSS.

Adult Alcohol Consumption

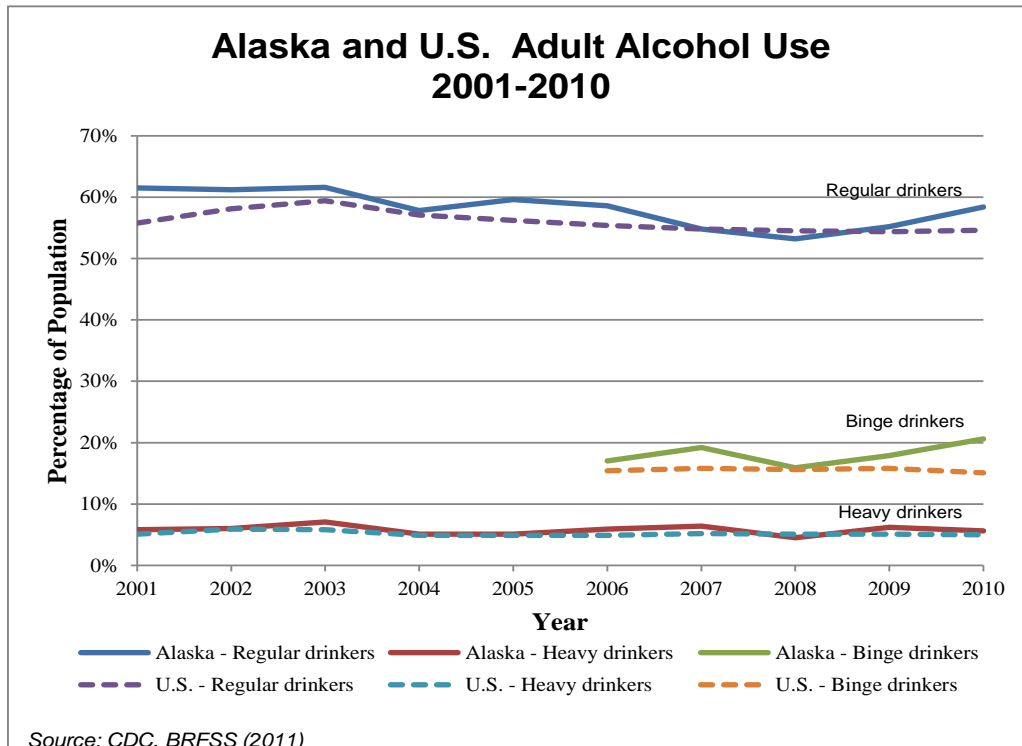
	AK	U.S.
Regular drinkers	58.4 %	54.6 %
Heavy drinkers	5.6	5.0
Binge drinkers	20.6	15.1

Data from the BRFSS shows that in 2010, Alaska had a higher percentage of regular drinkers (adults who have had at least one drink in the past 30 days), heavy drinkers (adult men having more than two drinks per day or adult women having more than one drink per day), and binge drinkers (males having five or more drinks on one occasion or females having four or more drinks on one occasion) than

the U.S. as a whole. (See Table 1.)

The rate of regular adult drinkers in Alaska has declined from 2001 to 2010, but is currently on the rise, along with the rate of binge drinkers. The number of heavy drinkers has stayed fairly consistent over the years. (See Figure 1 for trend data. See Appendix, Figures 8-10 for detailed charts.)

Figure 1. Adult Alcohol Consumption, Alaska and U.S., 2001-2010



Adult Tobacco Consumption

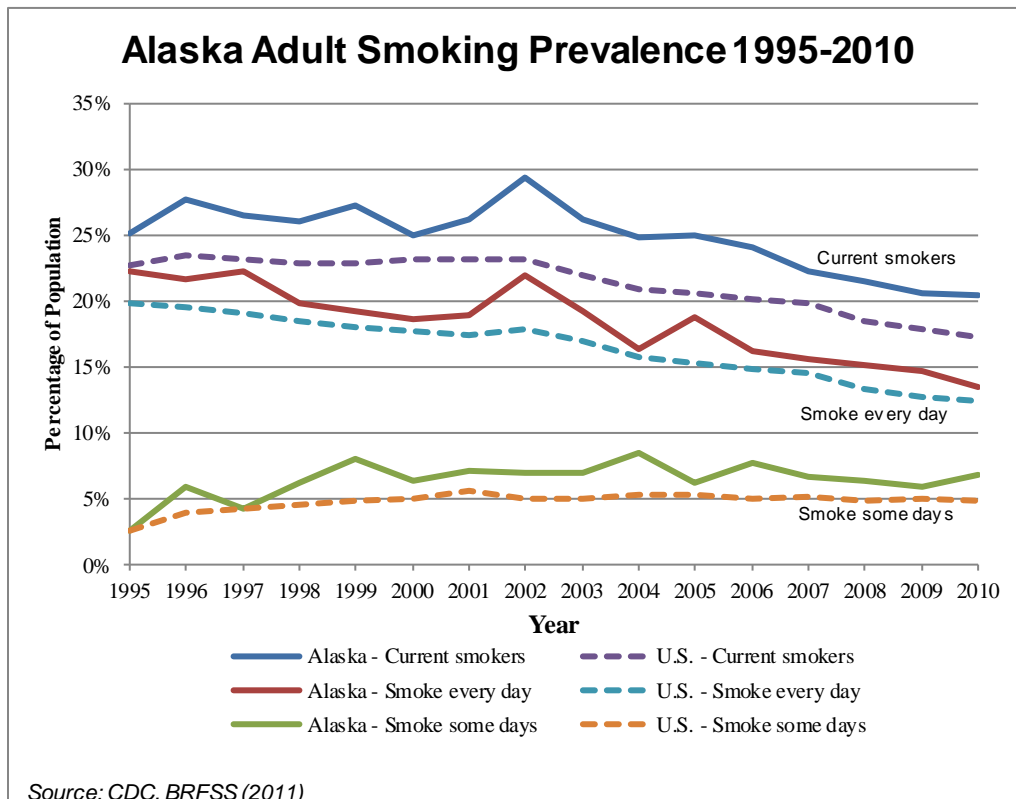
	AK	U.S.
Adults who are current smokers	20.4 %	17.3 %
Smoke everyday	13.5	12.4
Smoke some days	6.8	4.8
Former smoker	26.1	25.2
Never smoked	53.6	56.0

Alaska has a higher number of current adult smokers, daily smokers, smokers that only smoke some days, and former smokers. (See Table 2.)

Although Alaska has a higher rate of smokers than the U.S. as a whole, the rates of current smokers, everyday smokers, and sometimes smokers have declined from 1995 to 2010 – and are expected to continue trending down in the foreseeable future.

(See Figure 2 for trend data. See Appendix, Figure 11 for detailed graph.)

Figure 2. Adult Tobacco Consumption, Alaska and U.S., 1995-2010



Adolescent Consumption Data

Data about adolescents was collected from the Youth Risk Behavior Surveillance System (YRBSS – or YRBS as it’s known in Alaska) of high school students in Alaska and nationwide. The survey was first implemented at the national level in 1990. The CDC sponsors national and state surveys every two years (odd-numbered years). Although there were difficulties in administering the survey during some years, Alaska was able to obtain representative statewide data in 1995 to use as a baseline. There is a gap in data from 1995 until 2003 due to implementation and validity issues. The following data on adolescent alcohol and tobacco use were obtained from CDC publications of YRBS results. National results for the 2011 YRBS were not available at the time of this publication. The most recent national data is for 2009.

Underage Alcohol Consumption

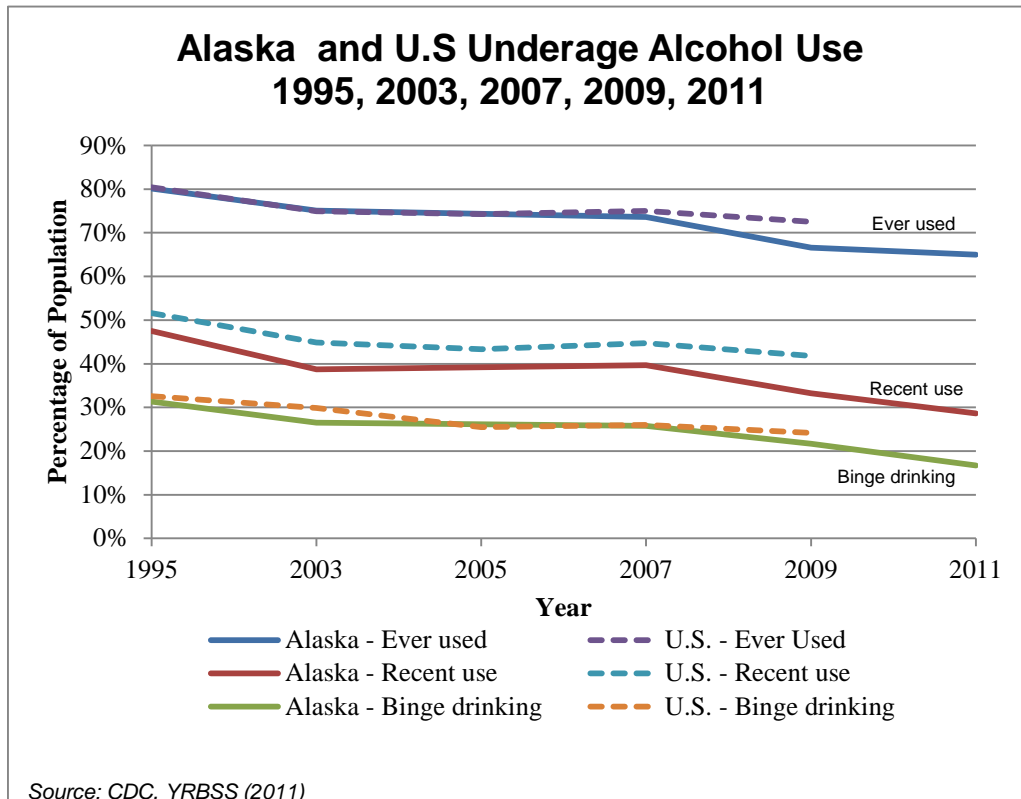
	AK (2011)	U.S. (2009)
Ever used alcohol	65.0 %	72.5 %
Current alcohol use	28.6	41.8
Binge drinking	16.7	24.2

Data from the YRBS shows that in 2011, Alaska had a lower percentage of youth who had ever drunk alcohol, currently use alcohol (youth who have had at least one drink in the past 30 days), and binge drinkers (five or more drinks in a row within a couple of hours on at least one day) than the U.S. in 2009. (See Table 3.)

The rates of youth in Alaska who have had at least one drink in their lifetime decreased from 80 percent to 65 percent during 1995-2011. (See Appendix, Figures 12-14 for detailed graphs.) In addition, rates of current alcohol use decreased from 48 percent to 29 percent and binge drinking decreased from 31 percent to 17 percent for Alaskan youth during 1995-2011. (See Figure 3 for trend data.)

Pre-teen alcohol use also declined significantly from 1995-2011, from 37 percent to 17 percent of youth reporting that they had used alcohol prior to age 13.

Figure 3. Underage Alcohol Consumption, Alaska and U.S., 1995-2011



Underage Tobacco Consumption

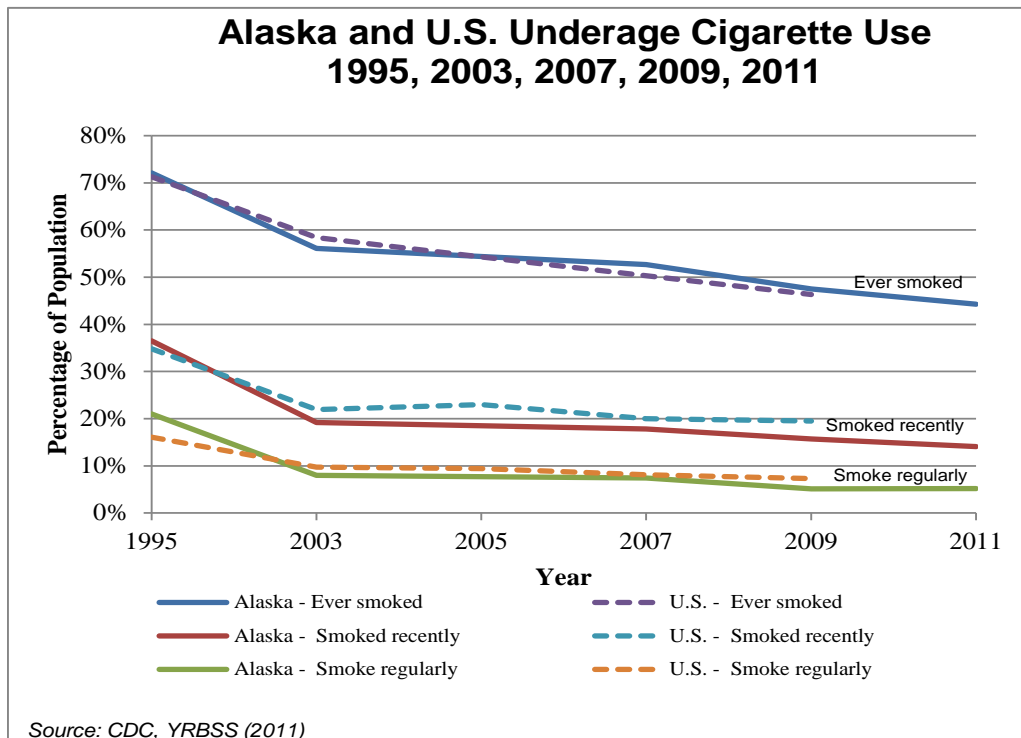
	AK (2011)	U.S. (2009)
Ever smoked cigarette	44.3 %	46.3 %
Current cigarette use	14.1	19.5
Frequent cigarette use	5.2	7.3

Similarly, data from the YRBS shows that in 2011, Alaska had a lower percentage of youth who had ever smoked a cigarette, currently use cigarettes (youth who have smoked at least one cigarette in the past 30 days), and frequent smokers (smoking 20 or more days of the 30 days prior to the survey) than the U.S. in 2009. (See Table 4.)

The rate of youth in Alaska who have smoked at least one cigarette in their lifetime decreased from 72 percent to 44 percent during 1995-2011. (See Appendix, Figures 15-17 for detailed graphs.) In addition, the rate of current cigarette use decreased from 37 percent to 14 percent and frequent smoking decreased from 21 percent to five percent for Alaskan youth during 1995-2011. (See Figure 4 for trend data.)

Pre-teen tobacco use also declined significantly from 1995-2011, from 31 percent to 11 percent of youth reporting that they had used tobacco prior to age 13.

Figure 4. Underage Tobacco Consumption, Alaska and U.S., 1995-2011



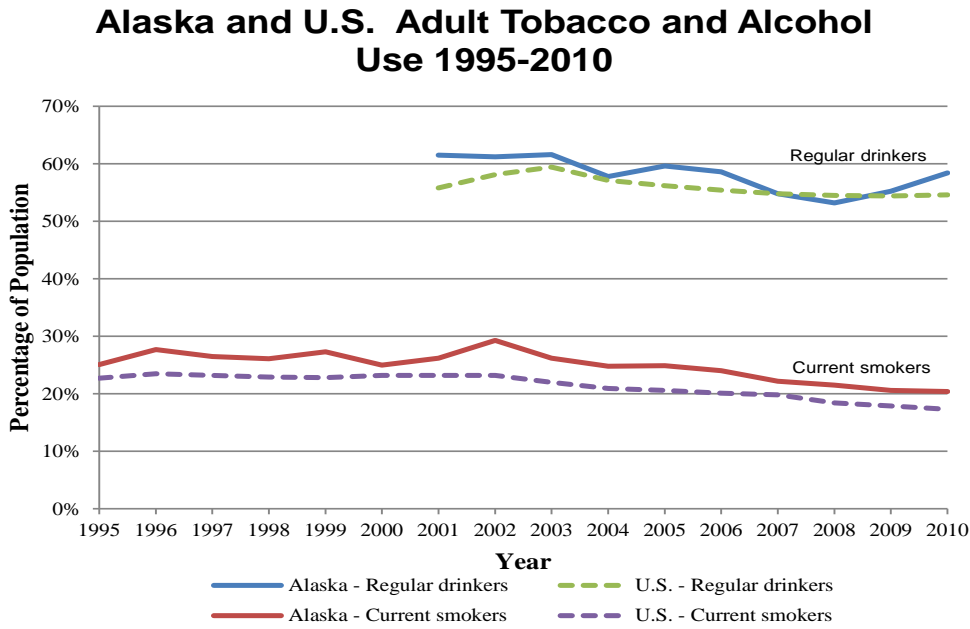
Comparison of alcohol and tobacco consumption

In general, alcohol is more pervasive in society than tobacco; more than half of the population use alcohol while less than 30 percent use tobacco.

Adult consumption of alcohol in Alaska declined from 2001 until 2008 when it began to increase, while tobacco consumption has consistently decreased since 2001. However, nationally, alcohol and tobacco consumption by adults has consistently declined since 1995. The reduction in alcohol and tobacco consumption for adults has impacts on youth access to these age-controlled products.

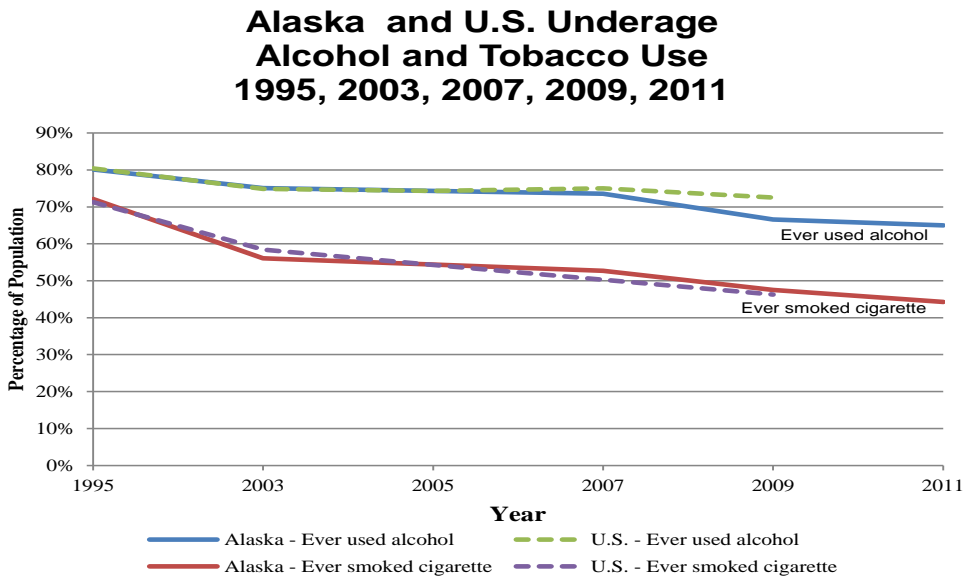
Youth consumption of alcohol and tobacco has consistently decreased in Alaska and the U.S. since 1995. However, the current consumption rates among youth indicate a need for further age-dependent control efforts.

Figure 5. Adult Tobacco and Alcohol Consumption, Alaska and U.S., 1995-2010



Source: CDC, BRFSS (2011)

Figure 6. Underage Alcohol and Tobacco Consumption, Alaska and U.S., 1995-2011



Source: CDC, YRBSS (2011)

Prevention and Intervention Efforts

Federal Involvement

Alcohol

The earliest intervention by the federal government related to underage drinking was the National Minimum Drinking Age Act of 1984, which forced states to raise the minimum drinking age to 21, or lose federal transportation funding. The next major federal action occurred in 2004 when the National Research Council (NRC) and the Institute of Medicine (IOM) released a report entitled *Reducing Underage Drinking: A Collective Responsibility* that called for coordinated action at the federal, state and local levels to reduce youth access to alcohol.

In 2004, Congress created the Intergovernmental Coordinating Committee on the Prevention of Underage Drinking (ICCPUD) with representatives from federal agencies that already had underage drinking prevention programs or activities. This committee guides policy and program development across the federal government with respect to underage drinking. Following is a list of the federal agencies involved in ICCPUD and their specific tasks related to preventing underage drinking (SAMHSA, 2011):

- Health and Human Services (HHS) Administration for Children and Families (ACF) – Promote economic and social well-being of families through programs that strengthen protective factors and reduce risk factors with underage drinking.
- HHS Centers for Disease Control and Prevention (CDC) – Strengthen scientific foundation for prevention of underage and binge drinking through various public health surveys and epidemiological studies.
- HHS/National Institutes of Health (NIH) National Institute on Alcohol Abuse and Alcoholism (NIAAA) – Conduct and support alcohol-related research while collaborating with other researchers and disseminating research findings to the community.
- HHS/NIH National Institute on Drug Abuse (NIDA) – Conduct research on health aspects of drug abuse and addiction and rapidly disseminates research to inform policy and improve practice.
- HHS Office of the Surgeon General (OSG) – Disseminate information to citizens for improving health and reducing risk in role as chief health educator.
- HHS Substance Abuse and Mental Health Services Administration (SAMHSA) – Support local efforts to prevent underage drinking, outreach and collaboration with interested parties.
- Department of Defense (DOD) – Prevent and reduce alcohol consumption by underage military personnel.
- Department of Education (ED) Office of Safe and Drug-Free Schools (OSDFS) – Support programs that prevent illegal use of alcohol, tobacco or other drugs.
- Department of Justice (DOJ) Office of Juvenile Justice Delinquency Prevention (OJJDP) – Enforcing Underage Drinking Laws (EUDL) - a nationwide state and community-based multidisciplinary effort to prevent access to and consumption of alcohol by those

under the age of 21 with emphasis on enforcement of underage drinking laws and implementation of programs that use best and most promising practices.

- Department of Treasury/Alcohol and Tobacco Tax and Trade Bureau (TTB) – Collect taxes in accordance with federal law.
- Department of Transportation (DOT) National Highway Traffic Safety Administration (NHTSA) – Develop, promote, and implement effective educational, engineering, and enforcement programs to end preventable tragedies and reduce economic costs associated with vehicle use and highway travel, including underage drinking.
- Federal Trade Commission (FTC) – Monitor alcohol advertising for unfair practices and deceptive claims and report to Congress.
- Office of National Drug Control Policy (ONDCP) – Establish policies, priorities, and objectives for the Nation’s drug control program.

Each department represented in ICCPUD has its own focus, and sometimes multiple foci, to combat underage alcohol use. However, despite this seemingly massive federal effort, alcohol control has been left largely to the states. Consequently, there is not organized federal funding for the prevention of underage alcohol use on a scale comparable to the funding for the prevention of underage tobacco use. Thus, there is no mechanism by which the federal government may use the threat of withholding funds from states which are less successful in their underage alcohol prevention efforts. In contrast, the federal government has the authority to withhold significant funding from states which do not comply with federal laws regarding underage tobacco prevention efforts.

In December 2006, Congress passed the Sober Truth on Preventing (STOP) Underage Drinking Act. The Act states that “a multi-faceted effort is needed to more successfully address the problem of underage drinking in the United States.” The STOP Act clearly delineates that states have regulatory authority over alcohol distribution and sales, while the federal government has a role in supporting state efforts. Further, the STOP Act identifies states as being responsible for prevention of underage alcohol use.

The STOP Act requires HHS to collect data on enforcement activities, prevention programs, and state expenditures. HHS delegated this task to SAMHSA, which collects data from each state about their efforts toward prevention of underage drinking and presents this information to Congress on an annual basis (U.S. Department of Health and Human Services, 2011). Although the STOP Act requires monitoring and reporting of state and local efforts to Congress, it does not tie any sort of state compliance to federal funding. Overall, federal funds in relation to underage drinking prevention are spent on research, outreach, and monitoring, rather than enforcement (Institute of Medicine, 2004).

Tobacco

In July 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, which includes an amendment aimed at decreasing youth access to tobacco. The Synar Amendment requires states to enact and enforce laws prohibiting the sale or

distribution of tobacco products to individuals under the age of 18. As a result of the Synar Amendment, SAMHSA issued the Synar Regulations which require that states:

- Have in effect a law prohibiting any manufacturer, retailer, or distributor of tobacco products from selling or distributing such products to any individual younger than age 18.
- Enforce this law.
- Conduct annual, unannounced inspections in a way that provide a valid probability sample of tobacco sales outlets accessible to minors.
- Negotiate interim targets and a date to achieve a noncompliance rate of no more than 20 percent (SAMHSA required that each state reduce its retailer violation rate (RVR) to 20 percent or less by FFY 2003).
- Submit an annual report detailing state activities to enforce its law.

In addition to setting targets for states, the Synar Amendment established penalties for noncompliance. States may lose up to 40 percent of their Substance Abuse Prevention and Treatment (SAPT) Block Grant funds (which largely fund substance abuse prevention and treatment programs) if they are noncompliant with Synar Regulations. However, states may avoid losing the SAPT Block Grant funds by an alternative penalty mechanism through which the state stipulates to commit state funds to improve compliance with the law (SAMHSA, 2011). Tying block grant funds to compliance has had the effect of increasing enforcement efforts, with pressure being applied by substance abuse prevention and treatment entities that would otherwise lose funding for their programs (Forster & Wolfson, 1998).

In 1996, the Food and Drug Administration (FDA) issued a rule entitled “Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents,” which strengthened and supported the policy of compliance checks as a mechanism to reduce underage smoking (Forster & Wolfson, 1998). The FDA regulations made it a violation of federal law to sell tobacco products to anyone under the age of 18 years. New regulations also required retailers to check photo ID of anyone appearing to be under 27 years of age. Sales of cigarettes became more restricted through regulation prohibiting retailers from selling anything less than a full pack of cigarettes (minimum of 20 cigarettes), prohibiting of sales through vending machines, banning of self-service displays of tobacco products, and prohibiting of free samples of tobacco products.

In June 2010, the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) became law. Though largely a reiteration of the 1996 regulations, the Tobacco Control Act gives the FDA new authority to regulate the manufacture, marketing, and distribution of tobacco products. The Tobacco Control Act requires the FDA to contract with states to inspect retail establishments in their jurisdiction (FDA, 2010).

State of Alaska

Alcohol

“The Alcoholic Beverage Control Board is established as a regulatory and quasi-judicial agency for control of the manufacture, barter, possession, and sale of alcoholic beverages in the state” (AS 04.06). For administrative purposes, the ABC Board is currently under Department of Public Safety; these two entities are jointly responsible for the enforcement of laws prohibiting sales of alcohol to underage persons.

As it relates to retail sales of alcoholic beverages to persons under the age of 21, AS 04.16.052 says that:

A licensee or an agent or employee of the licensee may not with criminal negligence allow another person to sell, barter, or give an alcoholic beverage to a person under the age of 21 years within licensed premises...; allow a person under the age of 21 years to enter and remain within licensed premises; allow a person under the age of 21 years to consume an alcoholic beverage within licensed premises.

A person who violates this law is guilty, upon conviction, of a class A misdemeanor. Possible suspensions or revocations for licensees, agents, or employees of licensees who are convicted of AS 04.16.052 ordered by the board include the following:

- 1st conviction: suspension of license for not more than 45 days
- 2nd conviction (within 5 years): may suspend license for not more than 90 days
- 3rd conviction (within 5 years): license may be suspended or revoked

The law has been interpreted in such a way that agents or employees of licensees may face criminal prosecution. Licensees have not faced license suspensions when their agents or employees are convicted of selling alcohol to persons under the age of 21 years. Licensees rarely face prosecution or administrative sanctions and license suspensions unless the licensee sells directly to a minor.

Training

Licensees and employees who sell alcoholic beverages must complete an ABC Board approved alcohol server education course and pass a written test. The certification is effective for three years during which time the person shall complete an approved course or successfully complete a written test demonstrating an understanding of course subjects. Clearly, requiring an alcohol server education course every three years ensures licensees and employees receive the most pertinent information in preventing sales to underage persons. However, this basic training serves only to reduce the liability of licensees and motivation of ABC Board enforcement to develop effective, long-term strategies that promote compliance. Additional training can be used as leverage with violating licensees if in exchange for voluntary supplemental training, sanctions for violating licensees/outlets are reduced (Forster & Wolfson, 1998). The ABC Board approves alcohol server education courses and also provides and encourages on-going merchant education

efforts to promote compliance. However, additional training is only provided upon the request of the licensee, though the ABC Board should strategically provide training to all licensees who do not pass compliance checks.

Increased training efforts and regular compliance checks must be adequately funded to be effective. Compliance checks and training can be self-supporting if a portion of licensing fees and all or a portion of fines and fees for violations are used to fund education and enforcement efforts (Forster and Wolfson, 1998, p. 213). If such fines and fees are insufficient, “[s]tates may need to consider the adequacy of funding for their alcohol control agencies including how effectively resources are utilized, to enable the agencies to undertake the committee’s recommended enforcement efforts” (Institute of Medicine, 2004)

Tobacco

In Alaska, the Tobacco Enforcement Division is housed in the Department of Health and Social Services. Violations of laws prohibiting sales of tobacco to underage persons are reported to and enforced by the Alaska Attorney General’s office. Administrative sanctions for such violations are handled by the Department of Commerce, Community, and Economic Development.

As it relates to retail sales of tobacco products to minors, AS 11.76.100 states: “a person commits the offense of selling or giving tobacco to a minor if the person negligently sells a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age...” A person who violates this law is guilty of a violation upon conviction. The fine associated with the seller who is convicted for this violation is not less than \$300 or greater than \$500. The civil penalty for a person who holds an endorsement to sell tobacco products, or an agent or employee of the endorsement holder who violates the law is as follows:

- 1st conviction: suspension of license for 20 days and civil penalty of \$300
- 2nd conviction (within 2 years): suspension of license for 45 days and civil penalty of \$500
- 3rd conviction (within 2 years): suspension of license for 90 days and civil penalty of \$1,000
- Each additional offense (within 2 years): suspension of 1 year and civil penalty of \$2,500
- The statute also specifies that suspensions can be reduced by 10 days or less if “the person holding the business license endorsement had adopted and enforced an education, a compliance, and a disciplinary program for agents and employees of the person.”

Age-of-Sale Laws: Differences between Alcohol and Tobacco

There are several differences between statutes in Alaska that are designed to prevent retailers from selling alcohol and tobacco to underage persons. Persons who violate age of sale laws for alcohol can be convicted of a misdemeanor whereas persons who violate similar laws for tobacco only face conviction for a violation. As a result, misdemeanor alcohol cases must undergo prosecution in the courts. Tobacco violations are handled administratively by the DCCED. The statute regarding sale of alcohol to underage persons refers to criminal negligence while the statute regarding sale of tobacco to underage persons refers only to negligent behavior. The greater degree of culpability associated with convictions for sales of alcohol to underage persons

may make it more difficult to convict individuals for violating this law than for selling tobacco to underage persons.

As it is written in the statute, license suspensions associated with convictions for alcohol sales are more stringent than for sales of tobacco to underage persons. In fact, the potential length of suspension for alcohol sales is twice as long as that for tobacco and includes the possibility of license revocation with the third offense. Civil fines for sales of alcohol to underage persons are far more severe than for sales of tobacco (\$10,000 for first alcohol conviction versus \$300 for first tobacco conviction). Graduated sanctions for alcohol sales to underage persons can be implemented for multiple violations within a five-year period for alcohol but only a two-year period for tobacco. Such sanctions have the potential to generate enormous revenue if implemented regularly for violations. However, such fines are rarely implemented for alcohol violations (See Sanctions section of this report). Potential penalties for underage alcohol sales are more stringent than for underage tobacco sales violations. However, actual imposition of sanctions are often less severe for alcohol than tobacco violations.

Compliance Checks

In order to carry out a compliance check, a representative sample of alcohol outlets is selected. At each outlet in the sample, a buyer who appears to be underage attempts to purchase alcohol without presenting age identification (ID). If the outlet sells alcohol to the buyer, it is considered noncompliant. If the outlet refuses to sell to the buyer, it is considered in compliance. Details of this procedure vary, but the basic process is similar in all alcohol purchase surveys (Pacific Institute for Research and Evaluation, 1999). The process is also similar in tobacco compliance checks.

Justification for compliance checks

Although law enforcement is challenged by an overwhelming variety of demands and budget constraints, compliance checks must be conducted by law enforcement officials because businesses regularly sell alcohol to underage people (Alcohol Epidemiology Program, 2000, p. 7). Compliance checks are designed to promote regular identification checks in order to reduce sales of alcohol to minors, with threat of sanctions for failing to do so. During alcohol purchase attempts made by researchers across the United States, youthful-appearing buyers were able to purchase alcohol without any questions at least 50 percent of the time (Alcohol Epidemiology Program, 2000). The average frequency with which underage persons were able to purchase alcohol underscores the need for law enforcement to conduct compliance checks in order to deter such sales. Having law enforcement officers be responsible for conducting compliance checks would provide a relatively easy way to promote compliance with laws prohibiting sales of age-restricted products to underage buyers - this would send a strong message to retailers that such sales are unacceptable (Forster & Wolfson, 1998).

Illegal sales to minors can be prevented, but most communities need valid information in order to do the most effective job of prevention. Compliance checks can provide this information. They also:

- Tell us who is selling to minors and how often.
- Raise community awareness and build support for reducing sales to minors.
- Inform merchants that they are being monitored by the community.
- Aid law enforcement.
- Help monitor the impact of prevention strategies (Pacific Institute for Research and Evaluation, 1999).

Effective compliance checks and enforcement of laws are associated with reductions in the purchase and use of age-restricted products. A variety of studies have found that compliance checks and enforcement of laws reduces the likelihood that minors are able to purchase age-restricted products from retailers (Grube, 1997; Biglan, Ary, Smolkowski, Duncan, & Black, 2000; Wagenaar, et al., 2000; Willingham, n.d.). Effective compliance checks reduce underage access to age-restricted products. In a longitudinal multi-state study, researchers found an inverse relationship between rates of merchant compliance and self-reported smoking by youth (DiFranza, Savageau, & Fletcher, 2009). Controlling for other factors DiFranza, Savageau, and Fletcher (2009) estimated that for each percent increase in average merchant compliance, the likelihood that youth in that area reported smoking cigarettes on a daily basis declined by two percent. Controlled studies have also found that effective enforcement reduced use of age-restricted products even more than merchant education programs (Forster & Wolfson, 1998). The strongest outcomes would likely be found where compliance checking and enforcement of laws were part of a multi-pronged effort that includes youth, merchant, community education, and other preventive measures.

Characteristics of effective compliance checks

For compliance checks to be effective, all merchant outlets need to be checked regularly for a sustained period. It is recommended that all merchants receive more than one compliance check per year, rather than conducting multiple checks on violating outlets (Institute of Medicine, 2004). Giving complying outlets at least a 364-day reprieve from subsequent checks, as is done in Alaska, is more likely to promote complacency than compliance. While two checks per year may be considered the minimum standard, researchers have found compliance more likely in outlets that were checked two or more times in a six-month period (Forster & Wolfson, 1998). The best effects of compliance checks have been found not only when outlets are checked regularly but when regular compliance checks take place over a prolonged period of time. Waggener et al. (2000) found the highest compliance rates in cities where merchants were checked at least twice per year for a full two-year period.

Regular compliance checks should be combined with communication to both retailers and the community to maximize effectiveness. Retailers should be notified that compliance checks are being conducted. Beyond one-time trainings, attempts should be made to regularly educate licensees as well as their agents or employees, about the laws regarding age-restricted products, and to present strategies for merchants to avoid sales to underage buyers. Such strategies may include mandatory identification checks for all sales of age-restricted products and electronic or other means of verifying age at the point of sale. Violation rates have been reduced when retailers have been notified of compliance or violation rates in their establishment and when

compliance is rewarded, such as giving small gift certificates to complying merchants. It is important to pair communication with retailers and rewards for compliance with regular compliance checks in order to prevent complacency. Complacency may result from merchants' belief that their recent refusal to sell to an underage buyer as part of a compliance check means their establishment will not face another compliance check for a full year. Since retailers provide only one source of age-restricted products to underage buyers, compliance checks and other community-wide prevention efforts should be publicized in the media in order to bolster community norms against underage drinking and tobacco use. A well-publicized multi-pronged prevention that includes compliance checks is essential in order to reduce access to age-restricted products from both retail *and* social sources (emphasis added) (Institute of Medicine, 2004).

Administrative penalties against licensees

State laws commonly prohibit sales of age-restricted products like alcohol and tobacco with misdemeanor charges (Forster & Wolfson, 1998). Alaska's statute prohibiting sales of alcohol to underage persons is in line with most other states. Compliance is generated through graduated sanctions including fines, temporary suspensions of licenses (first offense), and permanent revocation of licenses for multiple offenses (Institute of Medicine, 2004). Alaska's alcohol statutes, as they are written, have the potential to promote compliance with the law. Administrative or civil charges and substantial penalties are recommended for communities who have no other enforcement options (Alcohol Epidemiology Program, 2000). Alcohol statutes in Alaska may be seen as superior to other states, because they allow for both criminal and civil penalties for selling alcohol to underage persons. Civil penalties are more likely to promote compliance because they are faster, easier, and cheaper to administer than criminal penalties which require action through the court system (Forster & Wolfson, 1998). It is recommended that states aiming to strengthen compliance checking programs institute and enforce strict civil penalties.

Civil penalties are recommended in addition to, rather than instead of, criminal penalties in states like Alaska that currently prohibit sales of alcohol with misdemeanor charges. Moving from misdemeanor charges and their associated penalties to violations is not likely to increase compliance with laws prohibiting sales of alcohol to underage persons. Compliance checks and sanctions for violations are designed to deter merchants from selling to underage buyers. Effective deterrence requires swift, certain, and severe penalties for rational actors who violate the law. The type of charge or penalty (misdemeanor versus violation or civil) employed is less of an important factor in promoting compliance than who endures the sanction. Penalizing only agents or employees who sell to underage buyers has at best a narrow and shallow effect. Only one individual employee at the outlet is deterred and the deterrent effect for that outlet only lasts as long as that individual is employed there.

Sanctions that affect licensees (in addition to or instead of employees) are more likely to have a broader and deeper effect than sanctions against individual employees, because the sting of the sanction will be diffused to all employees and can lead to strategies that promote long-term compliance. Compliance with age-of-sale laws is more likely when "...sanctions can be imposed on managers or business owners, rather than, or in addition to salespersons..." (Forster &

Wolfson, 1998). Penalties such as license suspensions are reasonably severe, and are more likely to impact (or lead to the development of) policies and practices that promote compliance. Effective policies and practices regarding hiring, training, supervising, and checking age identification of all customers are essential to promoting compliance and reducing sales of age-restricted products to underage buyers (Alcohol Epidemiology Program, 2000). That the burden of creating policies that prevent underage buyers from accessing dangerous products sold by retailers is on the licensees who sell these products in their stores was acknowledged in the Alaska Supreme Court decision in Godfrey v. State of Alaska: “In summary, when an industry engages in commercial activity that routinely exposes the public to significant harm, the legislature has a legitimate interest in holding the industry’s licensed participants accountable for all conduct in exercising the license, not just for the licensee’s personal negligence or fault.”

In a 2005 study of ABC Boards in the U.S., the NHTSA concluded that ABC Boards nationwide had the following issues when it came to administrative penalties against licensees (NHTSA, 2005):

- Statutory maximum penalties differ from penalty guidelines.
- Penalty guidelines are broad and lack consideration for aggravating and/or mitigating circumstances.
- Penalties imposed differ from penalty guidelines.
- Lack of adequate record keeping for data analysis.

Alaska Alcohol Enforcement Data

Trends

The ABC Board sets goals for compliance checks for each fiscal year based on region. The highest compliance check goals are for the more densely populated and easily accessible areas. For example, ABC Board has set a goal to do compliance checks in 75 percent of the establishments in the Municipality of Anchorage, while setting a much lower goal of 25 percent for rural communities off the road system.

In FY2011, ABC Board met their goals for compliance checks in all eight regions. (See Table 5.) In that same period, there was a three percent increase in compliance; with 104 more compliance checks completed than in FY2010.

Table 5. FY2011 Alcoholic Beverage License Compliance Checks

Regions	# Licenses	# Checked	Goal	FY2011
Municipality of Anchorage	415	311	75 %	75 %
Fairbanks North Star Borough	168	94	50	56
City and Borough of Juneau	73	46	50	63
Southeast Alaska, except Juneau	184	72	35	39
Matanuska-Susitna Borough	179	91	50	51
Kenai Peninsula Borough	197	100	50	51
Rural communities on the road system	150	53	35	35
Rural communities off the road system	147	37	25	25

Source: State of Alaska Alcoholic Beverage Control Board

For a five-year period beginning in FY2007 and ending in FY2011, ABC Board was inconsistent in meeting their compliance check goals. Compliance check goals were met in FY2011 for every region; however, the goals were not met in the previous four years. In the City and Borough of Juneau and rural communities off the road system, compliance check goals were met in four out of five years. Three of the five years saw compliance checks goals met for the Municipality of Anchorage, the Matanuska-Susitna Borough, and the Kenai Peninsula Borough. Finally, compliance check goals were met in two of the five years for the Fairbanks North Star Borough, Southeast Alaska (except Juneau), and rural communities on the road system. (See Table 6.)

Table 6. FY2007-2011 Alcoholic Beverage License Compliance Checks

Regions	Goal	FY2007	FY2008	FY2009	FY2010	FY2011
Municipality of Anchorage	75 %	113 %	29 %	60 %	84 %	75 %
Fairbanks North Star Borough	50	41	59	44	40	56
City and Borough of Juneau	50	106	61	45	74	63
Southeast Alaska, except Juneau	35	50	13	25	27	39
Matanuska-Susitna Borough and Kenai Peninsula Borough	50	55	--	--	--	--
Matanuska-Susitna Borough	50	--	39	29	57	51
Kenai Peninsula Borough	50	--	59	27	23	51
Rural communities on the road system	35	43	29	21	15	35
Rural communities off the road system	25	28	37	26	0	25

Note: Prior to FY2008, MSB and KPB were reported as combined data

Source: State of Alaska Alcoholic Beverage Control Board

Sanctions

According to data provided by the ABC Board, 66 licensees have been sanctioned since 2003. The median sanction for suspensions of license to sell alcohol lasted for seven days. The data show that the actual imposed time for license suspensions was nearly 70 percent less than the ordered sanction length for the time period 2003-2011. (See Table 7.) The median ordered sanction in this time period was a 45-day license suspension. However, the median amount of

time suspended (reduced) from the suspension was 38 days, resulting in an actual median length of license suspension of seven days. (See Appendix, Tables 11-13 for more detail.)

The data also show that the same sanction is consistently given for both seller training violations (lack of mandatory training) and furnishing alcohol to minors. Providing the same or similar sanctions for these two disparate violations sends the message that furnishing to minors is only as important as having properly trained staff. In fact, sanctions should be more severe when alcohol is furnished to a minor because it creates an unsafe and illegal situation for the adolescent, an immediate public safety threat, and indicates that the staff member is not properly trained - thus compounding the violation.

These inconsistencies further support the findings of the National Highway Traffic Safety Administration in 2005. NHTSA determined that penalties for alcohol law violations are far from certain and, when imposed, are not severe enough to deter future violations. Increasing penalties, and imposing them, would have a greater deterrent effect (NHTSA, 2005).

Table 7. ABC License Suspension Sanctions, 2003-2011

Year	Number of Sanctions	Sum of Days of Ordered License Suspension	Sum of Days of Ordered License Suspension - Suspended	Sum of Days of Ordered License Suspension - Imposed	Percent of Ordered Sanction Actually Imposed
2003	1	30.0	23.0	7.0	23.3%
2004	--	--	--	--	--
2005	2	75.0	0.0	75.0	100.0%
2006	19	447.0	281.0	166.0	37.1%
2007	7	184.0	136.0	48.0	26.1%
2008	13	396.0	294.0	102.0	25.8%
2009	4	165.0	91.0	74.0	44.8%
2010	13	525.0	429.0	96.0	18.3%
2011	7	360.0	248.0	102.0	28.3%
2003-2011	66	2182.0	1502.00	670.0	30.7%

Source: Alaska Alcoholic Beverage Control Board (2011)

Looking at the sanctions data in comparison to compliance check data from 2006-2011, a disturbing trend becomes apparent. Out of 727 reported instances of noncompliance, only 63 licensees received sanctions from the ABC Board. This means that less than nine percent of all occurrences of noncompliance resulted in license suspensions. (Note: Complete data for 2003-2005 are not available.)

Caution about comparisons

The literature on compliance checks for both alcohol and tobacco cautions against making comparisons among and between different locations as well as across substances, because the process of conducting compliance checks varies greatly. For instance in some states “surveys” are conducted whereas in other states law enforcement officers conduct the checks. Surveys in this case are similar to compliance checks in that underage persons enter stores and attempt to purchase age-restricted products. However, these surveys are conducted without the assistance of law enforcement, so retailers who sell to minors go unpunished. Surveys can be a useful tool for providing information on who is selling to minors, but they are a weaker tool for promoting compliance with age of sale laws than compliance checks involving law enforcement where violations result in criminal and/or civil penalties.

Methodological problems also prevent meaningful comparisons. For example, different compliance checking programs use underage buyers of different ages, genders, and ethnicities; there are differences in the training and supervision of underage buyers; and an insufficient pool of buyers to conduct checks at all retail outlets (Forster & Wolfson, 1998). In Alaska, there are differences between compliance checks for tobacco and for alcohol. For tobacco, a Synar sample is done between June 1 and September 30 in places that underage buyers are allowed to be. During other times of the year, all tobacco retailers are checked. Moreover, the ABC Board must approve underage buyers who are used in alcohol compliance checks, whereas underage tobacco buyers used in compliance checks do not face the same limitations. Finally, rates of compliance and violation for sales of alcohol and tobacco in Alaska should not be directly compared because tobacco figures generated for the Synar report undergo a weighting procedure that differentially weights the results of checks conducted in rural and urban areas. Violations in rural areas are weighted more heavily for tobacco. No such weighting procedures are used in the reporting of alcohol compliance and violation rates.

A comparison between alcohol and tobacco compliance check rates in Alaska shows that the violation rates for alcohol sales to minors generally decreased from 2006 to 2011. In comparison, the weighted violation rates for tobacco sales to minors (under 19 years) fluctuated during 2006-2011, although they were consistently under the 20 percent rate required by Synar. (See Table 8.) Nonetheless, tobacco violation rates were lower than alcohol violation rates for five of the six years.

Table 8. Alaska Alcohol and Tobacco Compliance Check Violation Rates, 2006-2011

State Fiscal Year	Alcohol			Tobacco
	# Vendor Checks	# Sales	Violation Rate	Violation Rate
2006	874	169	19.3 %	9.4 %
2007	1037	190	18.3	13.6
2008	609	82	13.5	9.2
2009	614	83	13.5	15.1
2010	700	105	15.0	9.0
2011	804	98	12.0	7.6

Source: State of Alaska Alcoholic Beverage Control Board (2011)

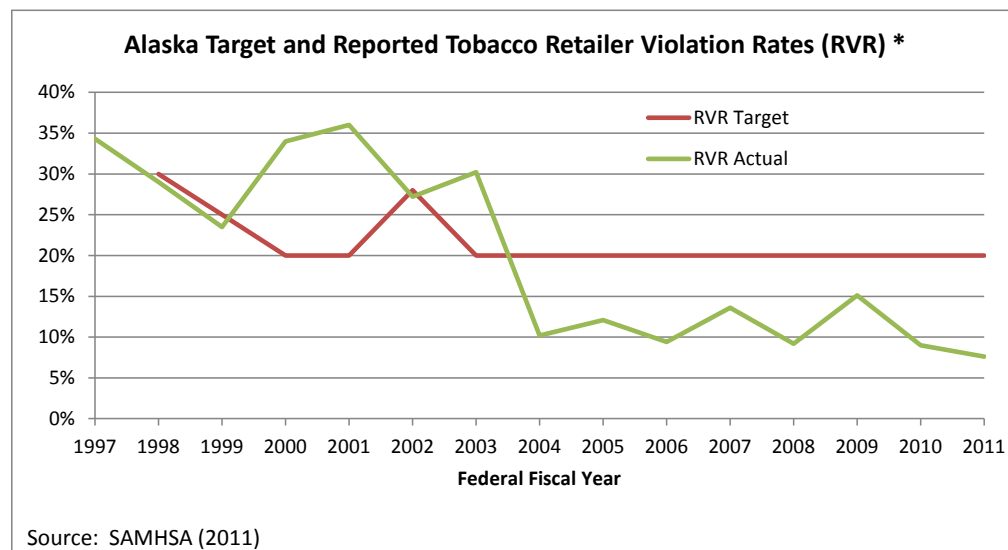
Alaska Tobacco Enforcement Data

Trends

In 2011, the Tobacco Enforcement Unit in Alaska completed 414 compliance checks with a Retailer Violation Rate (RVR) of less than eight percent. The standard set by the Synar program is 20 percent RVR.

Trend data show that RVRs have declined from nearly 35 percent (1997) to less than 10 percent (2011). Although rates appear to have increased many times over the time period, this fluctuation may be the result of the weighting applied to compliance checks in rural areas. For example, even one violation in a rural area may cause the RVR to increase significantly.

Figure 7. Tobacco Retailer Violation Rates



Sanctions

According to data from the DCCED, 155 licensees have been sanctioned since June 2008. Of those, 112 have resulted in suspensions of tobacco sales. The median length of suspension is 18 days, with a minimum of 9 days and a maximum of “lifetime ban.” Specifics about the reason for the sanctions were not provided for every case. (See Table 9.)

It is worth noting that although ABC Board has much stronger statutory sanctions available to them, noncompliant tobacco retailers consistently experience more stringent sanctions than noncompliant alcohol retailers.

Table 9. DCCED License Suspension Sanctions, 2008-2011

Year	Number of Sanctions	Sum of Days of License Suspension	Average Days of License Suspension	Median Days of License Suspension
2008	20	533	26.65	19
2009	37	4065	109.86	14
2010	39	707	18.13	18
2011	16	239	14.94	16
2008-2011	112	5544	49.50	18

Source: Alaska Department of Commerce, Community and Economic Development (2011)

Out of 124 reported instances of noncompliance (2008-2011), 112 licensees received sanctions. This means that 90% of all occurrences of noncompliance resulted in license suspensions.

Funding and other resources

Alcohol

Funding of alcohol enforcement programs through the ABC Board is severely limited. Alaska, along with other states, receives a block grant from OJJDP for programs to help prevent underage drinking. The ABC Board receives an Enforcement of Underage Drinking Laws (EUDL) grant through the Department of Health and Social Services (DHSS) from the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The grant provides annually, on a fiscal cycle, \$100,000 that covers the salary and benefits of one investigator. The grant is not sufficient to cover the salaries of the underage buyers, overtime, travel and lodging, or undercover funds, nor is it sufficient to provide ongoing merchant education (S. Gifford, personal communication, December 2011). Unfortunately, the lack of sufficient resources is not unique to Alaska. Lack of alcohol enforcement agents nationwide is a direct result of lack of resources (NHTSA, 2005).

Partnerships

Limited resources for promoting compliance with laws prohibiting sales of alcohol to underage persons necessitates the development of partnerships between ABC Board and enforcement officers and organizations or agencies like Volunteers of America Alaska's Communities Mobilizing for Change on Alcohol and Alaska's Cabaret, Hotel, Restaurant, and Retailer's Association, who also want to reduce underage access to alcohol. Such partnerships have been able to provide volunteer personnel or staff, educational materials or efforts for merchants, community, and youth, and other resources like funding. The expansion of partnerships could supply media coverage or support local ordinances or policy changes designed to reduce underage access to alcohol.

Not only is underage tobacco enforcement in Alaska well-funded, tobacco enforcement both in Alaska and nationwide is supported by a host of non-profit organizations (American Cancer Society, American Lung Association, American Heart Association, and the American Medical Association, among others) as well as granting organizations like the Robert Wood Johnson Foundation and federal agencies including the SAMHSA and the CSAP. Alaska's tobacco enforcement has been a resource-rich partner in enforcing age-of-sale laws across the state. However, differing age restrictions for sales of alcohol (21) and tobacco (19) makes combining enforcement efforts problematic. Studies have shown that well-funded prevention efforts have resulted in higher rates of compliance.

It should be noted that Alaska's Strategic Prevention Framework State Incentive Grant (SPF SIG) has selected underage drinking as one of two focus areas. Six communities in Alaska have received grant funding intended to reduce underage drinking and adult binge drinking. In addition, the Director of the Alaska Alcoholic Beverage Control Board is an active member of the Alaska Interagency Coordinating Committee on the Prevention of Underage Drinking (ACCPUD), currently a subcommittee of the SPF SIG. The ACCPUD is updating the State of Alaska Plan to Reduce and Prevent Underage Drinking (2009). The plan includes recommendations for limiting access of underage persons to alcohol by strengthening compliance check programs. However, no direct funding or other resources have been generated to implement this strategy. ACCPUD and SPF SIG are partners with ABC Board in reducing underage drinking and have the potential to include compliance checks and enforcement of age-of-sale laws as one component of a multi-pronged statewide underage drinking prevention effort.

Tobacco

The CDC updated its best practice recommendations in October 2007. For Alaska, the CDC recommends an investment of \$10.7 million per year for comprehensive tobacco prevention and cessation efforts and \$16 million for a fully funded effort. In 2011, Alaska is one of only two states that currently funds tobacco prevention programs above the CDC-recommended level, if both state and federal funding are counted (Jessen, 2010).

Tobacco grants/block grants

In FY2008, Alaska received approximately \$107.9 million in tobacco-derived revenue; \$7.55 million in state general funding and \$1.27 million in federal funding was appropriated for FY2008 tobacco prevention and cessation efforts (Alaska Department of Health and Social Services, 2009). In FY2012, Alaska has allocated \$10.8 million on tobacco prevention and cessation, one million more than was allocated in FY2011. Roughly \$175,000 was allocated in 2011 for the Alaska Tobacco Enforcement and Education program according to the DHSS budget overview. Although this budget does not cover all personnel costs, three full-time investigators, a half-time administrative clerk, and multiple student interns are part of the tobacco enforcement program. Alaska's Comprehensive Tobacco Prevention Plan includes: community-based programs, school-based programs, enforcement to reduce illegal underage sales, counter-marketing media, cessation support services (Quitline), tobacco price increases, smoke-free indoor air policies, data collection and program evaluation, and management and administration. Only a small amount of this funding is used for youth access enforcement.

Although there is no dedicated federal source of funding set aside for states to use in implementing the Synar requirements, states may expend funds from the primary prevention set aside of their Substance Abuse Prevention and Treatment (SAPT) Block Grant for carrying out the administrative aspects of the requirements, such as the development of the sample design and the conducting of the inspections. SAPT Block Grant funds may not be used to fund enforcement of youth tobacco access laws (SAMHSA, 2011). The FDA will begin its contract with Alaska in 2012 to conduct compliance checks as required under the Tobacco Control Act. With this contract will come additional funding for tobacco enforcement efforts.

Master Settlement Agreement

In 1998, the Attorneys General of 46 states signed the Master Settlement Agreement (MSA) with the four largest tobacco companies in the United States to settle state lawsuits to recover billions of dollars in costs associated with treating tobacco-related illnesses. The MSA requires the tobacco industry's participating manufacturers to make annual payments to the states, estimated at \$246 billion over the first 25 years. Alaska has received approximately \$218 million through 2008. The Alaska Legislature has obligated 80 percent of this revenue to repay capital construction bonds; the remaining 20 percent is deposited annually in the Tobacco Use Education and Cessation Fund (AS 37.05.580) (Alaska Department of Health and Social Services, 2009). The Tobacco Use Education and Cessation Fund provides financial resources for comprehensive smoking education, tobacco use prevention, and tobacco control programs (AS 37.05.580).

Taxes

Alcohol

Nationwide, alcohol tax rates are low in comparison to taxes on tobacco products. Alcohol tax rates have not kept pace with inflation, thus making alcohol cheaper today than it was 50 years

ago. In order to adjust alcohol prices to match inflation, taxes would need to be increased by a factor of three on beer to match 1960 values (Institute of Medicine, 2004).

Evidence-based research indicates that increasing the price of alcohol is an effective method to prevent underage drinking. Underage drinking is more responsive to price increases because youth have less discretionary income and purchase alcohol at package stores, rather than at bars and restaurants (Institute of Medicine, 2004).

Tobacco

Alaska receives more than \$100 million in annual revenue from tobacco sources: approximately \$75 million in tobacco tax revenue and another \$32 million in MSA payments. The Tobacco Use Education and Cessation Fund was created to receive a small portion of the state's tobacco-derived funds annually, which are then available for appropriation to support tobacco prevention efforts. (Alaska Department of Health and Social Services, 2009)

In Alaska, 76 cents of every dollar of cigarette tax revenue goes to the "School Fund" used for schools. The rest goes to the general fund. Nine percent of revenue is directed into the Tobacco Use Education and Cessation Fund which finances the state's tobacco control and prevention programs (American Lung Association, 2011).

Recommendations and Conclusions

Enforcement Efforts

Alaska already has statutory penalties sufficient to deter licensees from noncompliance. The ABC Board has the authority and discretion to impose penalties for noncompliance. Even though the ABC Board has the tools it needs to effectively regulate the sale of alcohol to underage buyers, it appears that changes to the methods used to enforce alcohol control laws are needed to help reduce underage alcohol use. We recommend the following:

- Amend ABC Board regulations to implement a penalty structure, including mandatory license suspensions and revocations and mandatory fines. The penalty structure should have graduated sanctions of increasing severity for multiple violations of age-of-sale laws.
- Amend ABC Board regulations to specify aggravating and mitigating circumstances and how they affect penalties.
- Hold the licensees responsible for all activities under the license: hold licensees responsible for the actions of their employees, not just their own personal actions. This will encourage more thorough training and law-abiding policies at the point of sale.
- Impose sanctions that are in line with the statutory penalty structure to promote consistency.
- Strengthen enforcement efforts by conducting more than one compliance check every six months at each licensed location in the state. If licensees do not know how many

compliance checks they may be subject to in any given time period, they will be less complacent about compliance.

- Pair compliance checks with communication efforts (i.e., via media) to merchants and the community.
- Provide rewards for compliant employees or retail outlets, since such rewards have been associated with increased compliance.
- Require identification checks for everyone purchasing alcohol – do not make the agent or employee attempt to ascertain age. Consider electronic techniques (i.e., Real ID/magnetic strip reader).
- Conduct compliance checks as part of a multi-pronged effort to reduce underage drinking.

Funding and Resources

It is important that funding and resources to the ABC Board be set at a level to allow for increased enforcement efforts. We recommend the following strategies to achieve the necessary funding:

- Increase the cost of licensing, or require yearly (rather than biennial) licensing. Increasing the license fees would create additional funding for ongoing merchant education and enforcement efforts.
- Increase excise taxes on alcohol to keep pace with inflation, and provide a funding resource.

Multi-pronged Strategy

Reducing underage access to alcohol requires a multi-pronged strategy and participation by a variety of entities.

- Develop and implement a program similar to the tobacco model, that is an adequately funded, coordinated, and multi-pronged underage alcohol prevention and intervention plan for the State of Alaska to reduce underage drinking.
- Utilize the effective strategies that are part of Alaska's Comprehensive Tobacco Prevention Plan.
- Fund a multi-pronged strategy through increased taxation, license fees, licensee penalties, and other sources.

Data and Evaluation

- Collect and report data on compliance and violation rates, repeat violators, case dispositions, and criminal and civil sanctions for violation of alcohol age-of-sale laws.
- Evaluate alcoholic beverage control and enforcement efforts for the State of Alaska.

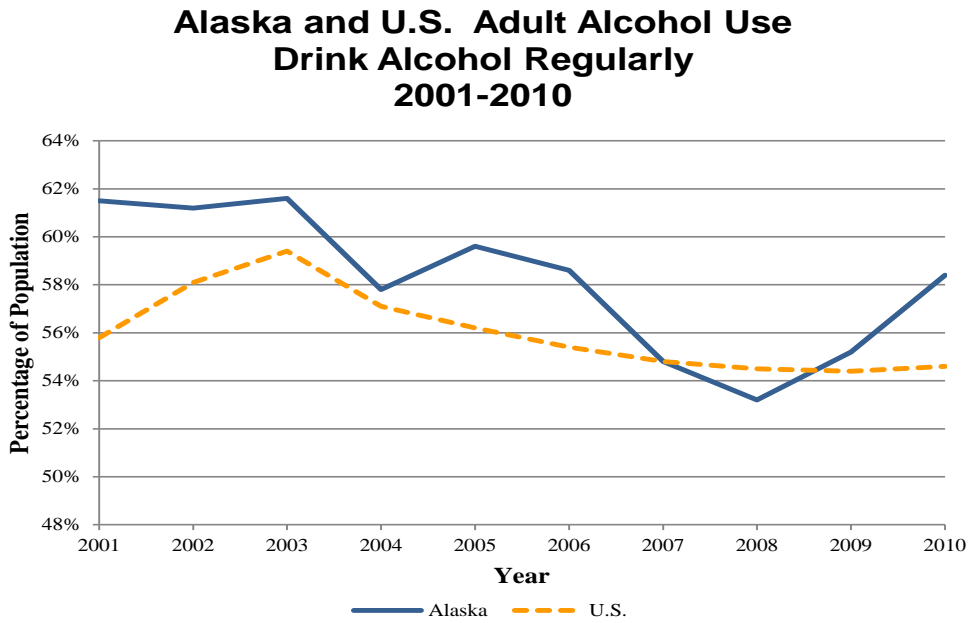
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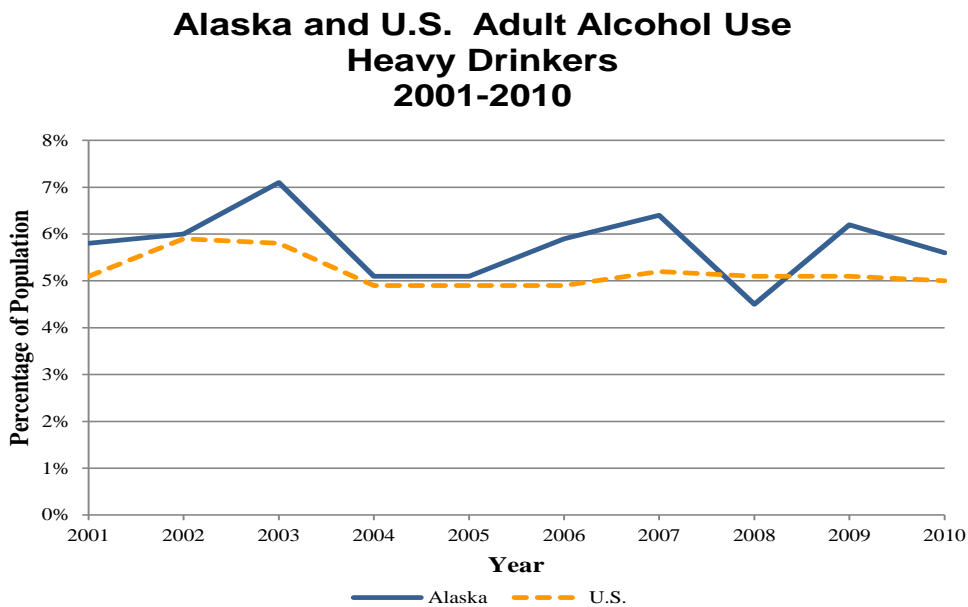
Appendix

Figure 8. Adult Alcohol Use – Drink Regularly



Source: CDC, BRFSS (2011)

Figure 9. Adult Alcohol Use – Heavy Drinkers



Source: CDC, BRFSS (2011)

Figure 10. Adult Alcohol Use – Binge Drinkers

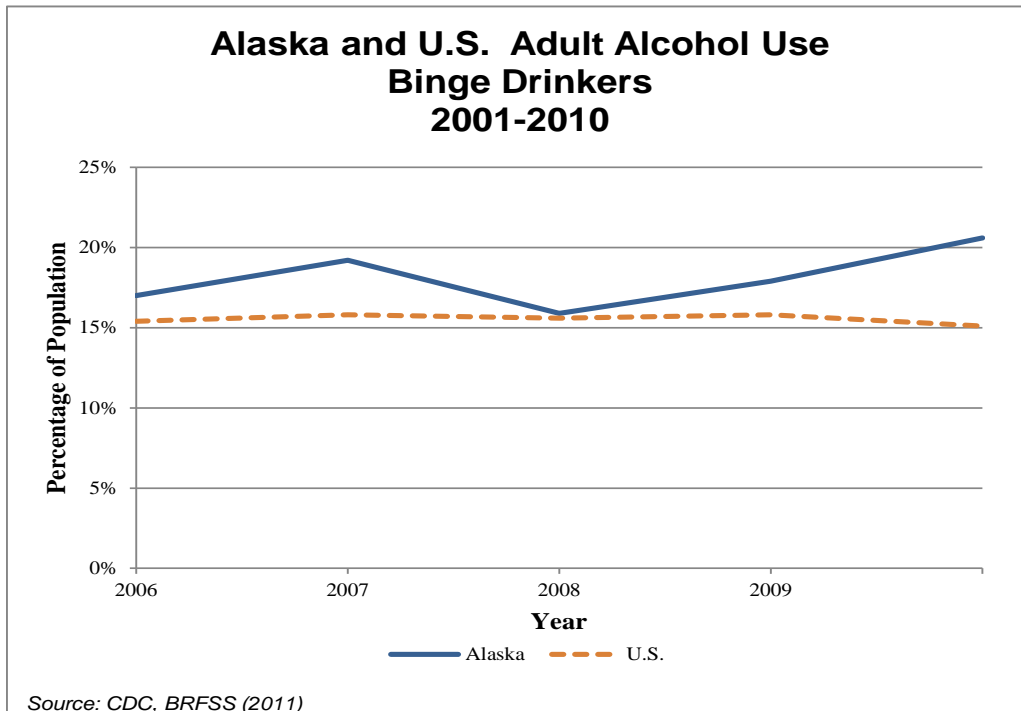


Figure 11. Adult Smoking Stages

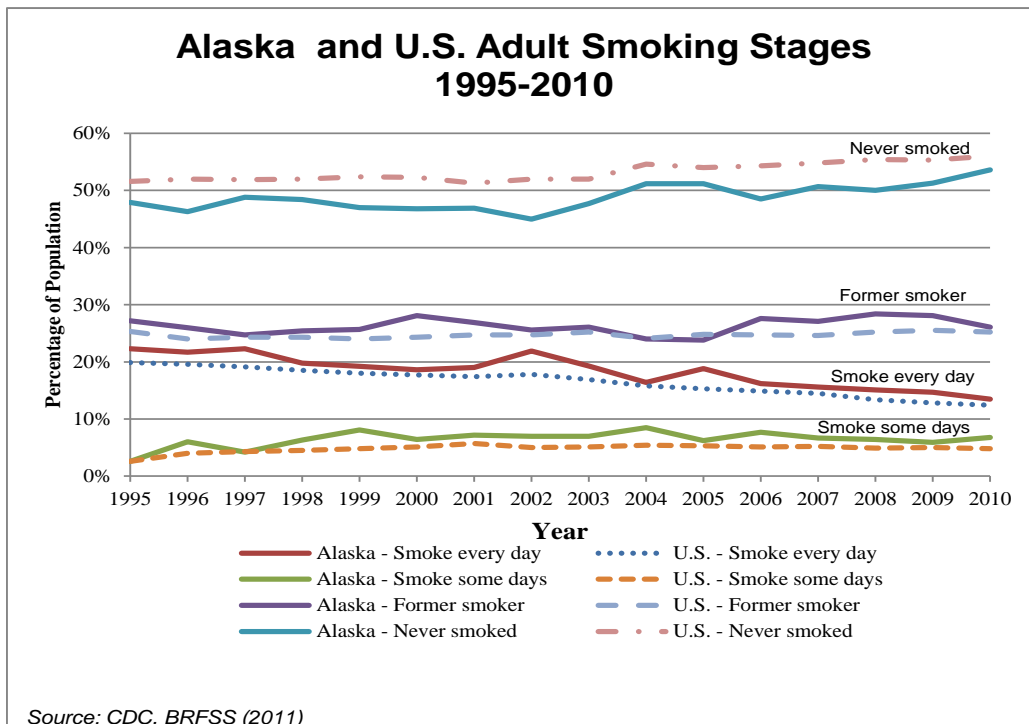
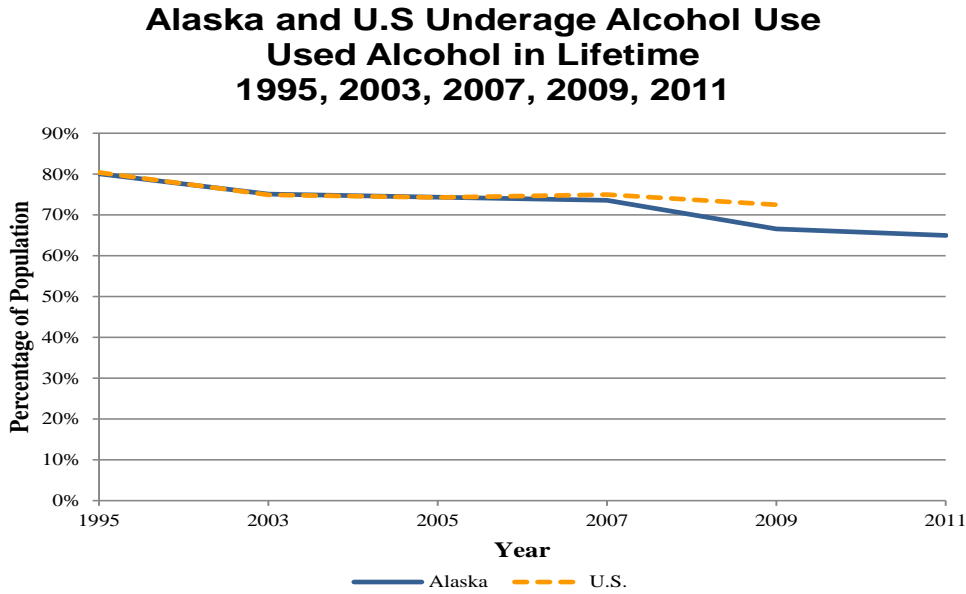


Figure 12. Underage Alcohol Use - Lifetime

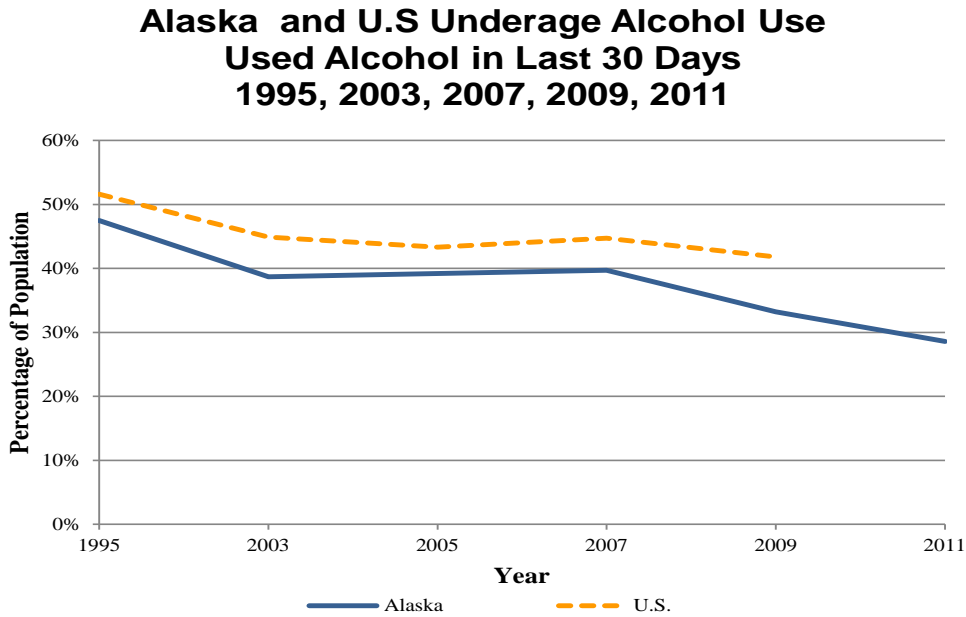
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Source: CDC, YRBSS (2011)

Figure 13. Underage Alcohol Use – Last 30 Days

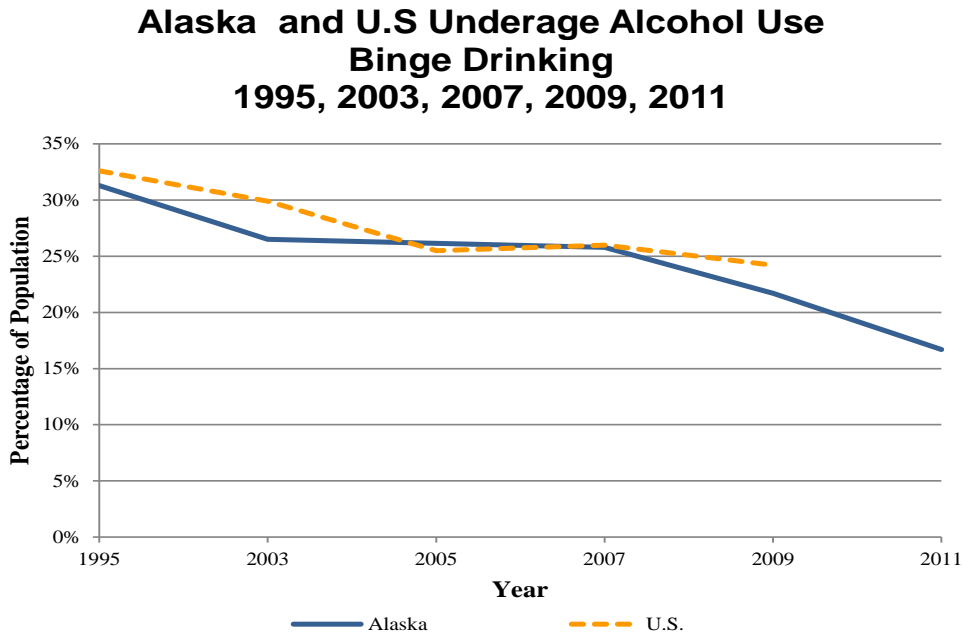
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Source: CDC, YRBSS (2011)

Figure 14. Underage Alcohol Use – Binge Drinking

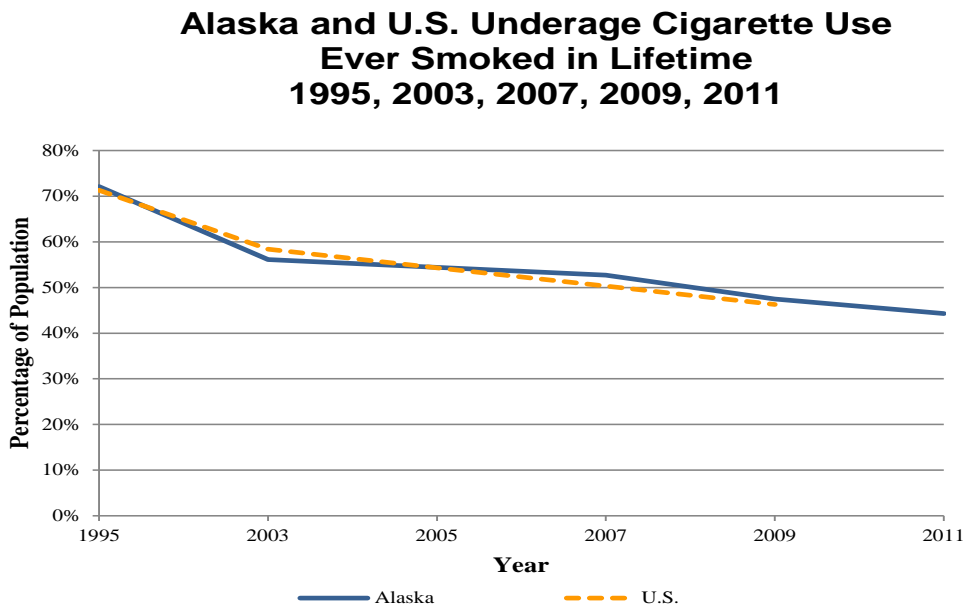
□



Source: CDC, YRBSS (2011)

Figure 15. Underage Cigarette Use - Lifetime

□

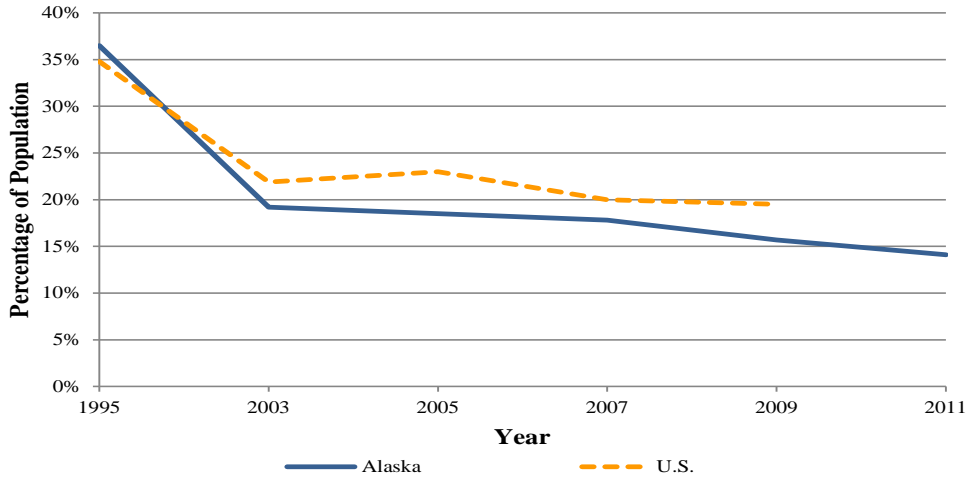


Source: CDC, YRBSS (2011)

Figure 16. Underage Cigarette Use – Last 30 Days

□

Alaska and U.S. Underage Cigarette Use Smoked in Last 30 days 1995, 2003, 2007, 2009, 2011

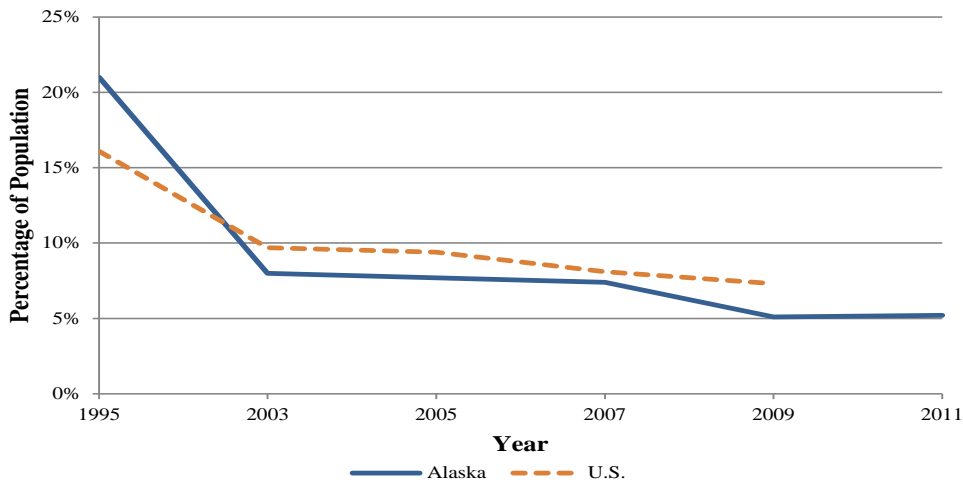


Source: CDC, YRBSS (2011)

Figure 17. Underage Cigarette Use – 20 of Last 30 Days

□

Alaska and U.S. Underage Cigarette Use Smoked 20 of Last 30 days 1995, 2003, 2007, 2009, 2011



Source: CDC, YRBSS (2011)

Table 10. Enforcement Efforts Comparison: Alcohol v. Tobacco

	Tobacco	Alcohol
Department Responsible	Department of Health and Social Services	Department of Public Safety
Federal Laws	Synar Amendment	STOP Act
State Laws & Penalties	<p>Seller:</p> <p>Violation: \$300</p> <p>Owner:</p> <p>AS 43.70.075 (2007)</p> <p>First offense: \$300 and license suspension for 20 days;</p> <p>Second offense (within 2 years): \$500 and license suspension for 45 days</p> <p>Third offense (within 2 years): \$1,000 and suspension for 90 days</p> <p>Additional (within 2 years): \$2,500 and suspension of 1 year</p>	<p>Class A Misdemeanor</p> <p>Both licensee and agents of licensee</p> <p>AS 04.11.570/13AAC 104.540</p> <p>First conviction/offense: up to \$10,000 fine and license suspension up to 45 days</p> <p>Second conviction/offense (within 5 years): up to \$30,000 fine license suspension up to 90 days</p> <p>Third (or more) conviction/offense (within 5 years): up to \$50,000 fine and license “may” be revoked or suspended (no set time)</p> <p>Board may impose civil fines not to exceed \$50,000 or three times the monetary gain realized by the licenses as a result of violation, whichever is greater.</p>
State Statute	<p>AS 11.76.100(a)</p> <p>A person commits the offense of selling or giving tobacco to a minor if the person (1) negligently sells a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of age; (2) is 19 years of age or older and negligently, exchanges or gives a cigarette, a cigar, tobacco, or a product containing tobacco to a person under 19 years of</p>	<p>AS 04.16.052</p> <p>“A licensee or an agent or employee of the licensee may not with criminal negligence (1) allow another person to sell, barter, or give an alcoholic beverage to a person under the age of 21 years within licensed premises; (2) allow a person under the age of 21 years to enter and remain within licensed premises except as provided in AS 04.16.049 ; (3) allow a person under the age of 21 years to consume an alcoholic beverage within licensed premises; (4) allow a person</p>

	age; or (3) maintains a vending machine that dispenses cigarettes, cigars, tobacco, or products containing tobacco.	under the age of 21 years to sell or serve alcoholic beverages.”
Financial Resources	AK appropriation: \$9,839,800 FY2011. Funding at over 100% level recommended by CDC Excise taxes: Fund tobacco control and prevention programs Federal funds: Master Settlement Agreement from tobacco industry	AK appropriation: None Excise taxes: None Federal funds: See Enforcement Resources
Enforcement Resources and Source	\$175,000 – 2011 allocation for the Alaska Tobacco Enforcement and Education program in DHSS budget	\$100,000 - Enforcement of Underage Drinking Law (EUDL) grant from Department of Health and Human Services/Office of Juvenile Justice Delinquency Prevention
Current Licensees Subject to Compliance Checks	951 (Synar Strata) ~1,500 (approximate total, including Synar Strata)	1,513
Merchant Education (or other) Resources	It's the Law We Card Philip Morris Action Against Access	Training for Alcohol Professionals (TAP) Training Intervention Procedures (TIPS) Techniques in Alcohol Management (TAM) ServeSafe Alcohol Server Training Course

Table 11. ABC Sanction Data 2003-2011, Ordered License Suspensions Days

Year	Number of Sanctions	Sum of Days of License Suspension	Average Days of License Suspension	Median Days of License Suspension
2003	1	30.0	30.0	30.0
2004	0	0.0	0.0	0.0
2005	2	75.0	37.5	37.5
2006	19	447.0	24.8	22.5
2007	7	184.0	26.3	30.0
2008	13	396.0	30.5	45.0
2009	4	165.0	41.3	45.0
2010	13	525.0	40.4	45.0
2011	7	360.0	51.4	45.0
2003-2011	66	2182.0	33.6	45.0

Source: Alaska Alcoholic Beverage Control Board (2011)

Table 12. ABC Sanction Data 2003-2011, Days Suspended from License Suspensions

Year	Number of Sanctions	Sum of Days of Suspended Sanction	Average Days of Suspended Sanction	Median of Days of Suspended Sanction
2003	1	23.0	23.0	23.0
2004	0	0.0	0.0	0.0
2005	2	0.0	0.0	0.0
2006	19	281.0	35.1	38.0
2007	7	136.0	27.2	38.0
2008	13	294.0	32.7	38.0
2009	4	91.0	30.3	38.0
2010	13	429.0	35.8	38.0
2011	7	248.0	41.3	38.0
2003-2011	66	1502.0	34.1	38.0

Source: Alaska Alcoholic Beverage Control Board (2011)

Table 13. ABC Sanction Data 2003-2011, Actual Days of License Suspensions

Year	Number of Sanctions	Sum of Days of Actual Sanction	Average of Days of Actual Sanction	Median of Days of Actual Sanction
2003	1	7.0	7.0	7.0
2004	0	0.0	0.0	0.0
2005	2	75.0	37.5	37.5
2006	19	166.0	8.7	7.0
2007	7	48.0	6.9	7.0
2008	13	102.0	7.8	7.0
2009	4	74.0	18.5	11.0
2010	13	96.0	7.4	7.0
2011	7	102.0	14.6	7.0
2003-2011	66	670.0	10.2	7.0

Source: Alaska Alcoholic Beverage Control Board (2011)