

A Review of the
Commonwealth of
Kentucky
Alcohol Control
Laws, 2007

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Introduction

Under the 21st Amendment of the Constitution of the United States, the individual states have the primary authority to regulate the manufacture, distribution, sale, taxation, and consumption of alcoholic beverages within the state. Their legislative bodies have enacted statutes that govern these areas and that provide for criminal and civil liability for harms resulting from the sale and consumption of alcohol. While all states have alcohol beverage control agencies that promulgate rules and regulations concerning alcohol control, alcohol law also may be found in other areas, such as those parts of the code dealing with motor vehicles (for laws related to driving under the influence), public health (for laws related to alcohol prevention, intervention, and treatment), public safety, and crimes and punishment.

This booklet is designed to provide information about Kentucky's laws and regulations regarding the manufacture, distribution, sale, taxation, and consumption of alcohol. The document contains summaries of Kentucky Statutes that are alcohol-related, a brief discussion of science-based environmental strategies, recommendations for policy change, and samples of ordinances that have been implemented by other communities. The publication is intended as an aid for prevention professionals and community coalitions who are involved in assessing community needs and planning environmental strategies that will address Kentucky's problems related to underage drinking and high-risk drinking among adults.

The document is expected to be in a continual state of revision as coalitions and prevention professionals continue to explore the existing statutes and ordinances and to encounter situations that call for additional policy change and new legislation. Consequently, each section is numbered separately to allow for subsequent changes.

The complete text for each law referenced may be accessed on the Internet under *KY Revised Statutes* at <http://162.114.4.13/krs/titles.htm>. During any legislative session, alcohol-related bills may be tracked electronically at <http://www.lrc.state.ky.us> under *Legislation and Legislative Record*.

Problems Posed By Underage Access to Alcohol

TEENAGE DRINKING PATTERNS

Alcoholic beverages, which include beer, wine, wine coolers, and hard liquor, have been among the most widely used substances by American young people for a very long time. Despite a legal alcohol purchase age of 21 in all 50 states, more than 10 million current drinkers in the United States are between the ages of 12 to 20. Of these young drinkers, 20 percent engage in drinking five or more drinks at a settingⁱ. On average, young people begin drinking at 12 to 13 years of age.ⁱⁱ By the time they are high school seniors, more than 80 percent have used alcohol and approximately 62 percent have been drunk.ⁱⁱⁱ Because of heavy or binge drinking, nearly one out of every five teenagers has experienced “black outs,” after which they could not remember what happened the previous evening.^{iv}

Girls are beginning to drink at younger ages, and for the age group 12 to 17, males and females reported comparable rates of current alcohol use in 2001 (17.2 percent of males and 17.3 percent of females). However, rates of binge and heavy alcohol use were higher among male youths than female youths in both 2000 and 2001.^v

FACTORS ENCOURAGING UNDERAGE ACCESS TO ALCOHOL

Teenagers face enormous social pressures

to drink, not only from their peers, but also from the media. The alcohol industry spends more than two billion dollars annually for advertising and promotion that glamorize alcohol and associate its use with success, sophistication, athletic ability, and sex.^{vi} These messages constantly bombard teenagers with the idea that alcohol, and especially beer, is an essential component of the “good life.” Very little information is presented about the negative effects of alcohol.

Alcohol is cheap and easily obtained by teenagers. One six-pack of beer costs approximately \$5.00 and contains more than enough alcohol to make the typical 18-year-old legally intoxicated. Many adolescents get alcohol at home or have an adult purchase it for them; however, approximately two-thirds of teens who buy their own alcohol report that they are rarely or never asked for identification.^{vii}

Legislation at the state and local level is often inadequate and loosely enforced. Suspension and revocation of liquor licenses can be effective deterrents, but it is difficult for the 40+ officers

with the Kentucky Alcohol Beverage Control Board to monitor the hundreds of alcohol retail outlets throughout the state. Also, license revocation is complicated and may require many months of litigation; consequently, fines and/or vendor training are preferred, and licenses usually are revoked only in instances that involve repeat violations.

ADVERSE CONSEQUENCES OF TEEN ALCOHOL USE

It is estimated that at least 6,000 young people

die each year in the United States in an event that is linked to alcohol. In addition to being considered a “gateway drug,” leading to other illegal drug use, alcohol consumption is associated with all the leading causes of death among teenagers (traffic crashes, homicides, and suicides) and, in recent studies, has been connected to 33 percent of drowning deaths for youth age 15-20 and to 25 percent of burn deaths. It is a major factor in sexually transmitted diseases and AIDS and in unplanned and unprotected sex and is associated with poor academic performance and school dropout.^{viii}

Trauma, including car crashes and homicide, is the main killer of people under age 25, and alcohol and other drugs are directly involved in a large percentage of these injuries. Also, it is estimated that approximately 40 percent of youth killed in alcohol-related traffic crashes were not the drinking driver.^{ix} In short, underage access to alcohol is one of the most serious health and social problems faced by America’s and Kentucky’s youth and is a drain on our society in terms of individuals who are injured or killed, lost productivity, increased health insurance premiums, and increased taxes.

Laws Regulating Retail Availability

Kentucky has been in a unique position for many years because of the number of its counties that do not allow legal alcohol sales; e.g., approximately two-thirds of the state's 120 counties are "dry" or "moist," meaning alcohol sales are allowed only in specific areas. Recent legislation has paved the way for this number to change drastically, since dry counties now have the right to vote on a local ordinance to allow alcohol sales in restaurants that seat at least 100 people and get at least seventy percent of their gross income from food sales. Wine tastings are now allowed in dry counties, small vineyards in dry counties may sell the wine they manufacture, and people in dry counties may vote to allow alcohol sales at golf courses. Thus, the color of Kentucky's alcohol landscape is changing, and the focus of prevention efforts in the state must change accordingly to address existing problems more effectively and to be in position to meet the challenges that are ahead.

LAWS REGULATING RETAIL AVAILABILITY IN DRY TERRITORIES

KRS CHAPTER 242. (Local Option)

242.020 Petition for election: A petition for a wet/dry vote (defined as a "local option") shall be signed by a number of constitutionally qualified voters of the city/county to be affected equal to 25 percent of the votes cast in that territory at the last preceding general election. The petition must contain the voter's name, residence address, Social Security number or date of birth, and the correct date upon which the petition was signed. The petition has to be filed within 6 months of its being circulated.

242.030 Date of local option election: The date of the local option election may be stated in the petition or designated by the county judge/executive. The election shall be held between 60 and 90 days after the date the petition is filed with the county clerk but may not be held on the same day as a primary or general election nor within 30 days preceding or following a regular political election. Also, a local option election in a territory smaller than the county shall not be held on the same day on which an election for the entire county is held except as approved in KRS 254.125, and no local option election can be held in the same territory more than once every three years.

242.050 Form of proposition: For a local option vote, the form of the proposition shall be, "Are you in favor of the sale of alcoholic beverages in (name of county of city)?"

242.100 Traffic in alcoholic beverage on election day local option election held prohibited: On the day that a local option election is held, it is illegal for any establishment selling alcohol to be open within the territory affected by the local option vote. It is illegal to sell, loan, furnish, or give alcohol to any person during that day.

242.123 Local option election for limited sale of alcoholic beverages in precinct containing golf course -- License: In any “dry” county that contains a “wet” city, an election (local option) may be held in any precinct with a nine- or eighteen-hole golf course to allow the limited sale of alcoholic beverages at the golf course only.

242.125 Separate vote on prohibition in cities of first four classes, in dry county or in case of county-wide election -- Status of dry precincts in case city votes wet: A city within a dry county or a precinct within a dry city may hold a referendum to determine if alcohol sales will be allowed within that territorial limit, regardless of whether the larger territory is wet or dry.

242.1297 Election in a precinct in a city of the third class where the entire city is wet territory: A precinct located in a city of the third class where the entire city is wet may have an election (local option) once every five years, asking “Are you in favor of the sale of alcoholic beverages in (official name and designation of precinct)?”

242.180 No referendum for three years after territory votes dry: No local option vote may be held until the expiration of three years from the date upon which voters of a territory vote to make the territory dry.

242.185 Ordinance permitting limited sale of alcoholic beverages by the drink -- Application -- Regulatory fee -- Local option election: In any city of the fourth class or county containing a city of the fourth class, in which prohibition is not in effect, the legislative body may enact an ordinance allowing alcohol by the drink to be sold at hotels, motels, or inns containing at least 50 sleeping units and having dining facilities for at least 100 persons or at restaurants open to the general public with dining facilities for at least 100 persons. A “dry” city or county may hold a local election (local option) to allow the sale of alcoholic beverages by the drink at restaurants that seat a minimum of 100 persons and derive a minimum of seventy percent of their gross receipts from the sale of food.

242.190 Effective date of prohibition -- Effect of annexation -- and 242.200 Discontinuance of prohibition -- Effective date: When the majority of votes cast at a local option election are in favor of prohibition (242.190) or are in favor of the discontinuance of prohibition (242.200), it shall be in force upon the expiration of sixty days from the day the county board of election commissioners enters the certificate in the order book of the county judge/executive.

242.260 Transportation and delivery in dry territory prohibited -- Exception: Except for legal distillers, manufacturers, and wholesale dealers, it is unlawful for any person or carrier to transport any alcoholic beverage into a dry territory.

242.270 C.O.D. shipments of alcoholic beverages in dry territory prohibited and 242.280 Receiving alcoholic beverages from carrier in dry territory prohibited: No person shall sell or deliver any alcoholic beverage that is to be paid for on delivery

(242.270) or receive or accept any alcoholic beverage from a common carrier or from any person who has transported the beverage for compensation, hire, or profit of any kind, either directly or indirectly (242.280) in a dry territory.

242.310 Renting of property or hiring vehicle for transportation is nuisance --

Forfeiture: Any person who knowingly rents or permits the use of any premises or vehicle for the purpose of unlawfully selling, transporting, or possessing alcoholic beverages in a dry territory shall be guilty of a nuisance and any property so used shall be forfeited to the state.

242.360 Illegal transportation of liquor -- Seizure of property: When a peace officer discovers any person in a dry territory illegally possessing or transporting alcoholic beverages in any vehicle, he shall immediately seize the vehicle and all alcoholic beverages found in it and arrest the person(s) in charge of it. The vehicle will be sold at public auction unless the owner proves it was being used without his knowledge and consent.

242.990 Penalties: Any person violating the provisions of this chapter (traffic in alcohol in a dry territory) for which no other penalty is herein provided, shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense shall be guilty of a Class A misdemeanor; and for the third and subsequent offenses, shall be guilty of a Class D felony.

SUMMARY OF PENALTIES

OFFENSE	CHARGE	FINE (\$ Max)	JAIL TIME
First	Class B Misdemeanor	\$250	90 days maximum
Second	Class A Misdemeanor	\$500	12 months maximum
Third	Class D Felony	\$10,000	1-10 years maximum



RECOMMENDATIONS

Michael Klitzner, recognized expert in the field of environmental strategies, recently addressed Kentucky’s challenge to provide effective environmental prevention of underage drinking in dry territories.^x (Klitzner, 2001). He acknowledged that there is very little information about this issue in current literature and that there is a need for more research on attitudes toward illegal sales in dry counties; the processes, characteristics, and county-to-county

variability of illegal sales; current enforcement practices; and the ways that particular traffic safety problems associated with dry option are currently addressed. Recommendations include discussions with knowledgeable officials and community activists in dry counties, along with further investigation into information outlining the issues involved in dry counties and detailing initial environmental approaches that might be piloted in Kentucky and other states.

LAWS REGULATING RETAIL AVAILABILITY IN WET TERRITORIES

TITLE XX - ALCOHOLIC BEVERAGES

KRS CHAPTER 241. (Alcoholic Beverages - Administration and Control)

Responsibilities of the ABC board include issuing licenses and supervising and controlling the use, manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages.

NOTE: KRS 241.060 and Administrative Regulation 9.010 allow the ABC board to regulate the number of licenses to be issued in any area,; accordingly, the following limits on outlet densities have been set and supersede the limits proscribed in KRS 241;065 and 241.075:

For retail liquor drink sales (Bars): 1 outlet for every 2,500 persons for cities of any size.

For retail package liquor sales: 1 outlet for every 2,300 persons for cities of any size.

There are no limits on beer outlets for cities of any size.

241.010: Contains definitions for all alcohol-related legislation.

241.065: Limits on retail liquor and drink licenses in counties with cities of the first class: The number of retail package liquor licenses or retail drink licenses is limited to one for every one thousand five hundred residents, as determined by an annual estimate of population by the chambers of commerce except during a census year, when the United States government census figures shall be used.

241.075: Location of retail package liquor and drink licenses in cities of the first class. No license shall be granted to any licensee who proposes to sell retail package liquor or liquor by the drink at a location within seven hundred feet of the location of any similar establishment in any combination business and residential area nor any similar establishment in a downtown business area. The distance is measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of an existing business to the nearest point of the proposed business. This limitation does not apply to businesses in existence before June 17, 1954 or to the renewal or transfers of their licenses.

KRS CHAPTER 243. (Alcoholic Beverages - Licenses and Taxes)

243.020 License required -- Federal license presumptions -- Operator of unlicensed

place not to permit drinking: A license is required for alcohol to be sold, bartered, loaned, given away, or consumed on the premise of any business. No more than three gallons of distilled spirits or wine shall be stored or kept on the premises of any person not holding a liquor license. (Opinion of the Attorney General - OAG 69-588: this last sentence applies only to the possession of distilled spirits or wine on business premises and does not prohibit or restrict the possession or manufacture of alcoholic beverages for personal consumption.)

243.031 Licenses available to wineries: The following licenses are available to wineries: small winery license, small winery off-premises retail license, farm winery license, farm winery retail outlet license.

243.032 Restaurant wine license: A restaurant with a minimum seating capacity of fifty people at tables and fifty percent or more of its gross annual income from the sale of food may be issued a license to purchase, receive, and sell wine.

243.100 Persons who may not be licensed: A person shall not be issued a liquor license who has been convicted of any felony within five years of application, been convicted of any misdemeanor connected to drugs or the use of alcoholic beverages or has had any liquor license revoked in the two years preceding application, is under the age of twenty-one, is not a citizen of the United States and has not been a bona fide residence of Kentucky for at least one year before the date of the application.

243.115 Removal of partially consumed bottle of wine from licensed restaurant: A licenses restaurant may permit a patron of the restaurant to remove one open container if the patron has purchased and partially consumed the bottle of wine with a meal on the restaurant premises. The bottle shall be securely resealed by the restaurant.

243.117 Placement of resealed bottle of wine during transport: If a patron removes a resealed bottle of wine from a restaurant as provided for in KRS 243.115, any resealed bottle of wine that is transported in a motor vehicle shall be placed in a locked glove compartment or trunk.

243.154 Business authorized by small farm winery wholesaler's license – Licensed premises on small farm winery: A small farm winery wholesaler's license authorizes the licensee to purchase, receive, store, possess and transport wine produced by small farm winery licensees.

243.155 Small farm winery license: Any in-state or out-of-state small farm winery may apply for a small farm winery license. A license authorizes the licensee to manufacture and bottle wine produced by small farm wineries, serve less than six ounces of samples per patron per day (if in a wet territory) and sell wine produced by a licensed small farm winery by the drink (if in a wet territory). If a licensed small farm winery is located within a dry territory, a local election may be held to propose the sale of wine.

243.260 Distilled spirits and wine special temporary license or special temporary wine license: A temporary license may be issued to any regularly organized fair, exposition, racing association or other party, not to exceed 30 days. A non-profit organization holding a retail malt beverage license may be issue a temporary distilled spirits or wine license, not to exceed 10 days.

243.280 Business authorized by malt beverage retailer's license -- Certain premises not to be licensed: A retailer's license shall not be issued to sell malt beverages at retail for any premise from which gasoline and lubricating oil are sold or from which the servicing and repair of motor vehicles is conducted, unless there is maintained in inventory on the premises for sale at retail not less than five thousand dollars of food, groceries, and related products valued at cost. This does not apply to any licensed premises which sell no fuel other than marine fuel.

243.360 Notice of intention to apply for license -- Protest: Any person applying for a liquor license must advertise by publication his or her intent to apply for a license. The notice shall state the name and address of the applicant, name and address of each partner, the name and location of the premises for which the license is sought, the type of license requested, and an invitation for protest to the granting of the license. Protests must be registered within thirty days after the date the notice of intent is published.

243.895 Warning of dangers of drinking alcoholic beverages during pregnancy to be posted -- Penalty: All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven inches by fourteen inches in size, with letters at least one inch high, supplied by the Alcoholic Beverage Control Commission, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects. A person who violates this provision shall be subject to a fine of from \$10 to \$50.

KRS CHAPTER 244. (Alcoholic Beverages- Prohibitions, Restrictions, and Regulations)

244.070 Sale to person not providing for his family prohibited: No licensee shall sell any alcoholic beverage to any person who has been reported to the licensee by any court or by any officer acting at the direction of a court as having failed to make proper provision for his family.

244.080 Retail sales to certain persons prohibited -- Affirmative defense in prosecution for selling to a minor: A licensee shall not sell or give away alcoholic beverages to a minor, a person under the influence of alcoholic beverages, anyone known to the seller or server to be a habitual drunkard or to have been convicted of drunkenness as many as three times within the most recent 12 month period, or anyone known to the seller or server to have been convicted of any misdemeanor attributable directly or indirectly to the use of alcoholic beverages or to have been convicted of a felony.

244.083 Licensee to display notice as to sale to minors: Each retail licensee shall display at all times in a prominent place a printed card at least eight inches by eleven

inches with at least thirty-point type that states that persons under the age of twenty-one are subject to a fine up to one hundred dollars if they enter the premise to buy or have served to them alcoholic beverages; possess, purchase, or attempt to purchase or get another to purchase alcoholic beverages; or misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages.

244.085 Minors not to possess or purchase liquor nor to misrepresent age -- Use of fraudulent identification -- Prohibition against minors remaining on premises where alcoholic beverages sold:

It is illegal for a person under age twenty-one to enter any premise licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverage; possess for his or her own use or attempt to purchase or have another person purchase any alcoholic beverage; misrepresent his or her age for the purpose of inducing another to sell or serve an alcoholic beverage to the underage person; use or attempt to use any false, fraudulent, or altered identification card or document to attempt to purchase alcoholic beverages; or remain on any premise that sells alcoholic beverages by the package unless he is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment. In addition, no person under twenty one years of age may remain on any premise where alcoholic beverages are sold by the drink or consumed on the premises unless (1) the establishment is a h/motel, restaurant, convention center, racetrack, simulcast facility, golf course, private club, park, fair, church, school, athletic complex or arena, theater, distillery or brewery or winery tour, establishment where prebooked concerts with advance ticket sales are held; (2) the alcoholic beverage inventory is kept in a separate, locked department at all times when minors are present; (3) written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals.

The request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing. Any person who violates this subsection for the second and subsequent offences is guilty of a Class A misdemeanor.

244.087 Minor may stock, arrange displays, and sell malt beverages: Persons at least eighteen years of age may stock, arrange displays, accept payment for, and sack malt beverages by the package, under the supervision of a person twenty years of age or older.

244.090 Persons whom licensees may not employ -- Partial exception: A person holding a liquor license may not employ anyone who has been convicted of any felony or has been twice convicted of any misdemeanor or offense related to the use of intoxicating liquors within the past two years, unless the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises; is under the age of twenty-one, unless the person is employed in a bottling house or room of a licensed distiller, vintner, brewer, or rectifier or in an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory or in a restaurant that derives at least fifty percent of its gross sales from the sale of food for

consumption on the licensed premises or in any other establishment with alcoholic beverage sales not exceeding fifty percent of its gross sales.

244.110 Retail premises to furnish clear view from sidewalk or entrance: The entrance of any premise for which a retail license has been issued shall be of clear glass and permit an unobstructed view of the premises from the sidewalk or, if the premises are not on the street level, from the entrance.

244.120 Retail premises not to be disorderly: No person licensed to sell alcoholic beverages at retail shall not allow patrons to cause public inconvenience, annoyance, or alarm or to cause a risk through fighting or threatening behavior or unreasonable noise.

244.165 Unlawful sale and shipment by out-of-state seller directly to a Kentucky consumer -- Penalty: It is unlawful for any person in another state or country to ship or cause to be shipped any alcoholic beverage directly to any Kentucky resident who does not hold a valid wholesaler or distributor license issued by the Commonwealth of Kentucky. For the first violation, a person will be mailed a certified letter ordering that they cease and desist; for the second and subsequent offense, the person shall be guilty of a Class D felony.

244.290 Closed times for retail premises -- Exception -- Sunday sales: In any county with a third class city (a population of at least 3,000 people), premises where distilled spirits or wine are sold at retail shall be closed between midnight and 6 a.m. and during the twenty-four hours of a Sunday unless the alcoholic beverages are kept in a separate locked department or there is a city ordinance to otherwise establish hours and times when distilled spirits and wine may be sold. In any county with a third class city where distilled spirits and wine sales are allowed, the legislative body may enact an ordinance allowing the sale of distilled spirits and wine by the drink on Sunday from 1:00 p.m. until the designated closing hour at hotels, motels, or restaurants that have dining facilities with a minimum seating capacity of one hundred people at tables and receive at least fifty percent or more of their gross annual income from the dining facilities from the sale of food.

244.540 Advertising malt beverages near school or church prohibited: No licensee shall advertise any malt beverage by trade name, trade-mark, or in any other manner within one-hundred feet of the property line of any school or church. This does not apply to signs located in cities of the first or second class.

244.650 Sale of confections or candies containing alcohol -- Sales to minors prohibited -- Labeling required: Candies and confections with liquid filling or liquid center and containing more than one-half percent but less than .05 percent of alcohol by volume or weight may be sold on premises without a liquor license; however, these may not be sold or given to any person under twenty-one years of age and must have a prominently displayed label saying, "Sale of this product to persons under 21 years of age is unlawful."



RECOMMENDATIONS

1) Responsible Beverage Service (RBS) training programs are designed to promote responsible business practices among alcohol retailers in a community. These programs review the retailers' operations, insure that laws are obeyed, provide positive incentives for staff involvement and action, and promote community support and involvement. Specifically, they educate bartenders, wait staff, store clerks, and managers about responsible beverage services, including ways to avoid selling or serving alcohol to minors or to people who show signs of intoxication, reducing the risks alcohol poses to the health and safety of the community. For effective implementation of RBS programs, collaboration is required between alcohol retailers, law enforcement officials, community health professionals, local citizens, and public officials.

Server training laws may be either mandatory or permissive. Mandatory laws require, as a condition of licensure, that employees of licensed establishments be trained in responsible service practices. Permissive (voluntary) server training laws provide benefits to licensees who have their employees complete a server training course. These benefits may include a reduction of liability insurance fees or reduced penalties incurred by the unsafe serving practices of their employees.

Research has established that RBS programs are effective. The state of Oregon mandated training for all servers of alcoholic beverages in 1986 and experienced a 23 percent drop in alcohol-related motor vehicle fatalities attributable to the training program three years later.^{xi} Other studies show that these programs result in more responsible practices, such as slowing service of alcohol and offering non-alcoholic beverages and food.^{xii} Also, customers of sellers/server who had received Responsible Beverage Service training were more likely to have lower blood or breath alcohol concentration (BAC) levels, and traffic crashes declined.^{xiii} Researchers have concluded that training and active involvement of managers is particularly vital to the success of server training policies.^{xiv}

By the year 2000, twenty-one of the United States had enacted statewide server training laws. These were mandatory in eleven states and permissive in ten.^{xv} As of yet, Kentucky has no statewide legislation addressing this issue, though the Alcohol Beverage Control Board provides Responsible Beverage Service training through their own program, Server Training in Alcohol Regulations (S.T.A.R.), for retailers and servers who want the training. Also, server training may be required if licensees have been cited and are requesting a reduction in or suspension of fines. In addition, many of the Regional Prevention Centers have staff trained to conduct Responsible Beverage Service training through TIPS, the leading national server training program.

The goal of RBS training is to create safer drinking environments and to reduce the likelihood of intoxication and its related problems, which is certainly in keeping with the philosophy behind environmental strategies for alcohol. These training programs can be established through the efforts of local and state agencies with local ordinances and/or state law requiring RBS training for licensure. The city of Georgetown enacted Kentucky's first local ordinance requiring RBS

training for all servers in restaurants licensed to sell alcohol, and this ordinance has been used as a template for other communities seeking to establish similar laws. As of 2007, 22 Kentucky communities have enacted such ordinances. Samples of the Bowling Green and Owensboro ordinances are in Appendix A, and additional information is available through the Alcohol Prevention Enhancement Site office.

2) Reducing Alcohol Availability does not mean prohibition. According to a report by the Marin Institute, it does mean that each community should have only as many outlets as it can support without increasing the risk for injury, death, and disease.^{xvi} In many areas, there are so many outlets that merchants turn to selling to minors and intoxicated people as a way to survive in a dense and highly competitive environment. Not surprisingly, high numbers of alcohol outlets mean increased violence, crime, and health problems. Preliminary data from a California Wellness Foundation-sponsored research project “indicate that alcohol outlet density contributes to youth violence rates even when poverty, ethnic and racial composition, family structure, and population density are held constant.”^{xvii} A 1992 study by the USC School of Medicine found that in communities with 100 or more alcohol outlets and with a population of 50,000 or more, an annual increase of 2.5 violent crimes for every additional alcohol outlet added to the community can be expected.^{xviii} Studies also show strong correlations between higher consumption patterns and higher rates of cirrhosis, fetal alcohol syndrome, fetal alcohol effects, injuries, diabetes mellitus, hospital admissions for alcohol dependence, and alcoholic psychosis and pancreatitis.^{xix}

KRS 241.060 and Administrative Regulation 9.010 allow the ABC board to regulate the number of licenses to be issued in any area. Currently, one retail liquor drink establishment (bar) is allowed for every 2,500 population in a county, and one retail package liquor store is allowed for every 2,300 population. There are no limits on beer outlets for cities of any size. Cities or precincts may enact local ordinances restricting alcohol outlet density below those levels allowed by the state and may implement ordinances requiring that retailers applying for a transfer of license be required to meet any new license requirements, rather than being grandfathered in under more lenient restrictions. They also may pass local legislation regulating the proximity of outlets to other outlets and to schools and residences.

3. Age Identification Policies have proven effective for reducing the ease with which people under age 21 purchase alcohol. Surveys conducted among Kentucky high schools show the vast majority of seniors indicating it is “very easy” or “sort of easy” to get alcohol.^{xx} While many teenagers obtain alcohol from a family member or older friend, illegal sales to minors are likely to occur unless employees in alcohol establishments consistently check the age identification of everyone who looks younger than age 30. Servers, clerks, and managers of alcohol establishments face the risk of criminal and civil liability if they serve or sell alcohol to an underage person. Checking age identification, therefore, decreases the potential liability a server or seller could face for selling alcohol to a minor, especially if that sale results in an injury to a third person. Alcohol outlets need written policies that provide information about the potential liabilities as well as clear guidelines for carefully checking age ID. Guidelines may be found in Appendix B.

Laws Regulating Social Availability

Alcohol's social availability in any given community depends on the accepted norms for drinking at private events established through the community's history, culture, and beliefs. Many communities and states complement controls on retail availability with strategies to reduce social availability by restricting alcohol access in public places, such as parks, beaches, community fairs, recreational centers, festivals, etc. These are common settings for

unsupervised teen drinking and often lead to serious alcohol-related problems.

LAWS REGULATING SOCIAL AVAILABILITY

TITLE XX - ALCOHOLIC BEVERAGES

KRS Chapter 244 (Alcoholic Beverages - Prohibitions, Restrictions, and Regulations)

244.085 Minors not to possess or purchase liquor nor to misrepresent age --

Prohibition against minors remaining on premises where alcoholic beverages sold:

It is illegal for a person under age twenty-one to:

enter any premise licensed for the sale of alcoholic beverages for the purpose of purchasing or receiving any alcoholic beverage possess for his or her own use or attempt to purchase or have another person purchase any alcoholic beverage misrepresent his or her age for the purpose of inducing another to sell or serve an alcoholic beverage to the underage person use or attempt to use any false, fraudulent, or altered identification card or document to attempt to purchase alcoholic beverages remain on any premise that sells alcoholic beverages by the package unless he is accompanied by a parent or guardian or the usual and customary business of the establishment is a convenience store, grocery store, drugstore, or similar establishment. In addition, no person under twenty one years of age may remain on any premise where alcoholic beverages are sold by the drink or consumed on the premises unless: the establishment is a h/motel, restaurant, convention center, racetrack, golf course, private club, park, fair, church, school, athletic complex or arena, theater, distillery or brewery or winery tour, or establishment where prebooked concerts with advance ticket sales are held the alcoholic beverage inventory is kept in a separate, locked department at all times when minors are present written approval has been granted by the department to allow minors on the premises until 10 p.m. where the sale of alcohol is incidental to a specific family or community event including, but not limited to, weddings, reunions, or festivals. The request shall be in writing and shall specifically describe the event for which approval is requested. The state administrator shall approve or deny the request in writing. Any person who violates this subsection for the second and subsequent offences is guilty of a Class A misdemeanor.

TITLE L - KENTUCKY PENAL CODE

KRS Chapter 530 - Family Offenses

530.070 Unlawful transaction with minor in the third degree. A person is guilty of unlawful transaction with a minor in the third degree when, acting other than as a retail licensee, he knowingly sells, gives, purchases, or procures, any alcoholic or malt beverage in any form to or for a minor.



RECOMMENDATIONS

Open House Assembly ordinances (see Appendix C for a sample ordinance.) address the problem of youth parties held at private residences or at rented spaces, such as hotel rooms, meeting halls, and other places. These ordinances have been enacted by communities to hold parents and other adult owners or renters responsible for allowing or fostering underage drinking that occurs at the party, in the belief that adults who believe they will be held responsible may be more likely to supervise such parties on property under their control. As of 2007, four Kentucky communities have passed such ordinances, and many more are in the process.

Beer Keg Registration laws require retailers to place an identifying tag on each beer keg sold at retail. At the time of sale, information is collected on the purchaser's identity and address, allowing law enforcement officials to identify the purchaser of any keg that might be used to provide beer to underage drinkers. Keg registration was first implemented at the local level; however, since purchasers could easily drive to a nearby town where registration of beer kegs was not required, registration policies are now being implemented at the state level. Oregon was the first state to enact a statewide keg registration program in 1978. Since then, a dozen additional states have followed.

While no research studies have been published with data documenting the effectiveness of beer keg registration, there are numerous studies demonstrating that increasing or decreasing the availability of alcoholic beverages among youth affects consumption. For example, several studies show that youth alcohol consumption is higher when prices of alcoholic beverages are lower, and beer kegs are a cheap source of alcohol. Also, even though large numbers of high school students in the Commonwealth report field parties with heavy and illegal consumption of alcohol by minors, Kentucky has no state legislation requiring keg registration.

These are critical areas that need to be addressed at the state level and that also may be addressed through local ordinances. Bowling Green is one of three communities within the state that have enacted ordinances requiring keg registration. Copies of the legislation and registration forms are available in Appendix D as examples of what concerned communities can do to reduce underage drinking by implementing keg registration policies.

Consequences

DRINKING AND DRIVING LAWS

According to a publication by the Alcohol Epidemiology Program (AEP) of the University of Minnesota, the following are only a few of the many research studies showing that the presence of alcohol in the blood produces numerous physiological and behavioral changes and, as the BAC increases, its effects become more prominent. At BAC levels as low as 0.01 to 0.02, judgment and the ability to attend to two tasks simultaneously are impaired; at BAC levels of 0.05 to 0.06, a person experiences a decrease in reaction time and coordination; and at BAC levels of 0.08 to 0.10, balance, vision, and intellectual functioning are impaired significantly (NHTSA, 2000; Segal, 1988; Hanson & Venturelli, 1998; Moskowitz et al., 1985).

Considering these studies, it is not surprising that several other studies indicate that reducing the legal general BAC limit for drinking drivers is associated with a decrease in fatal and non-fatal traffic crashes (Hingson et al., 1995; Blomberg, 1992) and that a reduction of BAC limits of 0.00 or 0.02 for youth reduced teen driving after drinking by 19% (Wagenaar et al., in press). Also, youth BAC limits of 0.02 have proven even more effective in reducing traffic crashes when accompanied by public information and education on zero tolerance for drinking and driving among youth (Blomberg, 1992).^{xxi}

TITLE XVI (MOTOR VEHICLES)

KRS 189.00 (Traffic Regulations -- Vehicle Equipment and Storage)

189.520 Operating vehicle not a motor vehicle while under influence of intoxicants or substance which may impair driving ability prohibited -- Presumptions concerning intoxication:

It is illegal for any person under the influence of intoxicating beverages or any substance that may impair one's driving ability to operate a vehicle that is not a motor vehicle anywhere in the state. If the person's blood alcohol concentration measures 0.08 or more, it shall be presumed that he or she is under the influence of alcohol.

189.530 Providing motor vehicle to person intoxicated or under influence of substance that may impair driving ability -- Possession of open alcoholic beverage container in a motor vehicle prohibited:

No person may provide a vehicle to another person, knowing that the potential operator is under the influence of any substance that can impair driving ability. It is illegal for any open container containing alcohol to be in the passenger area (including an unlocked glovebox) of any vehicle located on a public highway or on the right-of-way of a public highway (includes any public road, alley, bridge, private residential road and parking lot, and off-street parking facilities).

KRS CHAPTER 189A.00 (Driving Under the Influence)

189A.010. Operating a motor vehicle with alcohol concentration of or above 0.08 or above 0.02 for persons under age twenty-one or while under the influence of alcohol or other substance that impairs driving ability prohibited:

It is illegal for anyone to operate a motor vehicle with a breath alcohol concentration of 0.08 or more as measured within two hours of cessation of operation or physical control of the vehicle. If the person is younger than 21, the allowable BAC is less than 0.02.

Penalties for persons under age 21:

BAC of 0.02 to 0.08: Suspension of driving privilege or operator’s license for 30 days to 6 months AND a fine of \$100 to \$500 OR sentenced to 20 hours of community service in lieu of a fine.

BAC of 0.08 or greater: Offender will be subject to the penalties listed below for persons 21 and older.

SUMMARY OF PENALTIES FOR PERSONS UNDER AGE 21 (BAC of 0.02 to 0.08)

LICENSE		FINE		COMMUNITY SERVICE
Suspension of driver’s license for 30 days to 6 months	AND	\$100 to \$500	OR	Sentenced to 20 hours in lieu of fine

Penalties for persons age 21 and older:

For the first offense within a five-year period, a fine between \$200 and \$500 OR jail time of 48-hours to 30 days, OR BOTH fine and imprisonment. Public service in a community labor program for 48 hours to 30 days may be requested. With any aggravating circumstance (operating vehicle in excess of 30 miles per hour above the speed limit, driving the wrong direction on a limited access highway, causing an accident with serious physical injuries or death, having a BAC of .18 or more, refusing to submit to a breath or urine analysis, and having a passenger under the age of 12), the mandatory minimum term of imprisonment shall be 4 days and the term may not be shortened in any way.

Second offense within a five-year period: fine of \$350 to \$500 AND jail time of 7 days to six months and may be sentenced to community labor for 10 days to 6 months. With aggravating circumstances, the mandatory imprisonment shall be 14 days. Also, a person with a second or subsequent offense SHALL have any license plate(s) owned individually or jointly by him/her impounded (**189A.085**) OR the court may order the installation of an ignition interlock device, which is connected to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting if the driver’s BAC exceeds 0.02 (**189A.340**).

Third offense within a five-year period: Fine of \$500 to \$1000 and jail AND imprisonment in the county jail for 30 days to 12 months and may be sentenced to community labor for 10 days to 12 months. With aggravating circumstances, the mandatory imprisonment is 60 days.

For a fourth or subsequent offense within a five-year period, guilty of a Class D felony. With aggravating circumstances, the mandatory imprisonment is 240 days.

SUMMARY OF PENALTIES FOR PERSONS AGE 21 AND OLDER

☛ Offense	FINE (\$)		OR*	JAIL		Public Service*		Vehicle/License
	Min	Max		Min ^{1.}	Max	Min	Max	
First	200	500	OR*	2	30	2	30	----- -
Second	350	500	AN D	7	6 mo	10	6 mo	Mandatory license plate impoundment OR installation of interlock device
Third	500	1000	AN D	30	12 mo ^{2.}	10	12 mo	
Fourth = Class D Felony³	1,000	10,000	AN D	1 yr	10 yr	----- --		

☛ Within five years

* For first offense only, EITHER Fine OR Imprisonment OR BOTH may be assigned.

* Public service may be assigned in lieu of fine and/or jail time (first offense only) or in addition to jail time (other offenses).

1. With aggravating circumstances (operating vehicle in excess of 30 miles per hour above the speed limit, driving the wrong direction on a limited access highway, causing an accident with serious physical injuries or death, having a BAC of .18 or more, refusing to submit to a breath or urine analysis, and having a passenger under the age of 12), jail time is mandatory for a minimum of 4 days.

2. Also may be sentenced to community labor for 10 days to 6 months. With aggravating circumstances (see¹ above) 14 days imprisonment is mandatory.

3. "Felony" means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the Department of Corrections may be imposed and SHALL call for a fine of \$1,000 to \$10,000 (KRS 534.030).

189.040 Alcohol or substance abuse treatment and education programs – Sentencing offenders to programs – Regulations of programs – Appeals of decisions regarding licensure of education and treatment facilities and programs. In addition to other penalties, the court shall sentence the person to an education or treatment program. A first offender shall receive 90 days in a program, including an assessment. A subsequent offender shall receive one year in a program, including an assessment.

189A.045 Enrollment in alcohol or drug education or treatment program - Attendance -- Reporting and effect of failure to attend -- Reporting of completion of program:

If a person who is assigned to an alcohol or drug education or treatment program fails to complete the program or does not maintain satisfactory attendance at the program, he shall be required to show cause why he should not be held in contempt of court and be subject to reinstatement of any penalties that may have been withheld pending completion of the program.

189A.085 Surrender and impoundment of motor vehicle license plates: Upon conviction of a second or subsequent case of driving under the influence, a person shall have the license plate(s) of all vehicles owned by him/her, either solely or jointly, impounded by the courts.

189.105 Effect of refusal to submit to tests: A person's refusal to submit to breath, blood or urine tests shall result in revocation of his driving privilege.

189A.110 Minimum detention in custody when blood alcohol reading exceeds .15 percent: Any person arrested for driving under the influence and showing a blood alcohol reading above .15 percent shall be detained in custody at least four hours following arrest.

189A.250 Judicial review of pretrial suspension imposed under KRS 189A.200(2)(c): If a person involved in an accident that resulted in death or serious physical injury to another person is arrested for driving under the influence, his driver's license shall be suspended during the time the trial is pending.

 **RECOMMENDATION**

Traffic deaths are the largest health problem directly attributable to teenage drinking.^{xxii} During the past twenty years, approximately 2000 laws have been passed nationwide to reduce drunk driving, resulting in a 34 percent decline in alcohol-related traffic deaths, from more than 25,000 in 1982 to 16,589 in 1994.^{xxiii} The steepest decline was among youth aged 15-20, which was down 44 percent from 5,380 in 1982 to 2,364 in 1993. A major reason for this remarkable decline was the adoption nationwide of age 21 as the legal purchase age for alcohol.

Join Together, a prevention organization funded by The Robert Wood Johnson Foundation to the Boston University School of Public Health, advocates legislation making it illegal for individuals under age 21 to drive with any measurable amount of alcohol in their bodies (0.00 BAC).^{xxiv} Kentucky's zero tolerance policy allows for a BAC of 0.02 for underage drivers and requires youth younger than 18 with a BAC between 0.02 and .08 to attend an impact class followed by either a treatment program or an early intervention class that is focused on lifestyle risk reduction.

VIOLATION OF IGNITION INTERLOCK DEVICE

189A.340 Ignition interlock devices:

In lieu of ordering license plate impoundment (189A.070), the court may order installation of an ignition interlock device on all vehicles owned by a person convicted of a second or subsequent case of driving under the influence. For a first offense, the ignition interlock device shall be installed for a period of six months; for a second offense, twelve months; for a third or subsequent offense in a five year period, thirty months. If a person’s license has been suspended for a second or subsequent incidence of driving under the influence, he or she shall not be able to apply to the court for permission to install an ignition interlock device until one year of license suspension has been completed without any subsequent conviction for driving under the influence.

KRS CHAPTER 189.00 (Traffic Regulations - Vehicle Equipment and Storage)

189.345 Penalties for violation of KRS 189A.410 and 189A.340 governing ignition interlock devices: Penalties for helping bypass an ignition interlock device: First offense, guilty of a Class B misdemeanor (up to 90 days imprisonment OR a fine of \$500 maximum); second offense, guilty of Class A misdemeanor (12 months imprisonment or Fine of \$400, maximum). NOTE: DUI statutes may require higher fines. No person shall direct another person to install a defective ignition interlock on a motor vehicle.

FRAUDULENT DRIVER’S LICENSE

KRS CHAPTER 186.00 (Licensing of Motor Vehicles, Operators, and Trailers)

186.560 Mandatory revocation or denial of license -- Causes -- Period of revocation or denial -- Prohibition against reductions of certain revocations or denials -- Limited exception relating to enrollment in alcohol or substance abuse education or treatment programs. The license of any operator of a motor vehicle shall be revoked upon conviction for fraudulent use of a driver’s license or use of a fraudulent driver’s license to purchase or attempt to purchase alcoholic beverages. If the person does not yet possess a license, it shall be denied for the same period of time as though it had been suspended.

A person under the age of 18 who is convicted of fraudulent use of a driver’s license or use of a fraudulent driver’s license to purchase or attempt to purchase alcoholic beverages SHALL have his license revoked for the period stated above or until he reaches the age of 18, whichever is the longer period.

SUMMARY OF KRS 186.560

OFFENSE (18 or older)	PERIOD OF LICENSE REVOCATION
First	6 Months OR completion of a substance abuse education or treatment program

Second	12 Months
Subsequent	Minimum of 2 Years
OFFENSE (younger than 18)	Until age 18 or as listed above, whichever is longer.

DISORDERLY CONDUCT

TITLE XVIII - PUBLIC HEALTH

KRS CHAPTER 222 (Public Intoxication)

222.202 Offenses of alcohol intoxication or drinking alcoholic beverages in a public place: It is illegal to appear in a public place under the influence of alcohol to the degree that the person may endanger him/herself or other persons or property or unreasonably annoy persons in the vicinity. A person arrested for public intoxication shall be issued a citation to appear in court and taken to jail until able to care for him/herself (8 hours maximum) or released to an adult willing to accept responsibility for the defendant.

TITLE XIX - PUBLIC SAFETY AND MORALS

KRS CHAPTER 231. (Places of Entertainment)

231.110 Conduct prohibited on premises: Persons who have been granted a license to operate a place of entertainment may not allow drunken, disorderly, or boisterous persons to congregate in or about the premises. Violators may be fined up to \$300 OR confined in the county jail up to 90 days OR BOTH.

ALCOHOL SALES IN A DRY TERRITORY

TITLE XX - ALCOHOL BEVERAGES

KRS CHAPTER 242. (Local Option -- Dry/Wet Territories)

242.990 Penalties: Any person violating the provisions of this chapter (traffic in alcohol in a dry territory) for which no other penalty is herein provided, shall, for the first offense, be guilty of a Class B misdemeanor; for the second offense shall be guilty of a Class A misdemeanor; and for the third and subsequent offenses, shall be guilty of a Class D felony.

SUMMARY OF PENALTIES

OFFENSE	CHARGE	FINE (\$ Max)	JAIL TIME
First	Class B Misdemeanor	\$250	90 days maximum
Second	Class A	\$500	12 months

	Misdemeanor		maximum
Third	Class D Felony	\$10,000	1-10 years maximum

FINES FOR NON-RESIDENTS OF KENTUCKY

TITLE XL - CRIMES AND PUNISHMENTS

KRS CHAPTER 431. (General Provisions Concerning Crimes and Punishments)

431.523 Bail for nonresidents charged with driving under the influence: Bail for non residents of Kentucky who are charged with driving under the influence shall be five hundred dollars unless the defendant was involved in a motor vehicle accident in which property damage or physical injury to a person was involved, in which case bail shall be one thousand five hundred dollars (\$1,500). In the event of serious physical injury or death, the minimum amount of bail shall be five thousand dollars (\$5,000).

APPENDIX A: Sample Mandatory Responsible Beverage Service Training Ordinances

Bowling Green, Kentucky

4-9.09 Mandatory Server Training.

a. "Server" for purposes of this Section shall mean any person employed or working in any capacity, whether as an employee, volunteer help or as a working proprietor, in any premise licensed for the sale of alcoholic beverages where alcoholic beverages are sold or dispensed by the drink or where malt beverages are sold for consumption on the premises and whose job duties include the sale, dispensing or service of alcoholic beverages or the management of the licensed premises.

b. No person shall be employed by a licensed premise as a server unless the server has successfully completed a City-approved alcoholic beverage server training program. This training program shall be completed for all newly hired servers within thirty (30) days of the first date of employment. Servers successfully completing the training shall receive a server certification from the server training program. Each server shall successfully complete a new server training program to be recertified not less than once every three (3) years.

c. No licensed premise in which alcoholic beverages are sold by the drink or malt beverages are sold for consumption on the premises shall allow any server employed over thirty (30) days to sell, dispense or service any alcoholic beverage or malt beverage or to manage any such licensed premises unless that server is the holder of a current server certification. Each such licensed premise shall maintain a file at the licensed premise for each server for whom training is required. The file shall contain the name, job description, date of employment and proof of certification of each server regulated by this Section. This information shall be available at any reasonable time to any alcoholic beverage control officer or any police officer.

d. Any person working at a special event for which a temporary alcoholic beverage license has been approved shall not be required to comply with this Section.

(Ord. BG2002-73, 1/7/2003)

APPENDIX A: Sample Mandatory Responsible Beverage Service Training Ordinances

Owensboro, KY. (Mandatory Responsible Beverage Server Training Ordinance)

ORDINANCE 1-2004

ORDINANCE AMENDING CHAPTER 3, ARTICLE II OF THE OWENSBORO MUNICIPAL CODE BY ADDING NEW LANGUAGE IN SECTION 3-35 (NOW RESERVED) ENTITLED "MANDATORY RESPONSIBLE BEVERAGE SERVICE TRAINING; STANDARDS FOR CERTIFICATION" REQUIRING ALL PERSONS, CORPORATIONS, RESTAURANTS, BUSINESSES, CLUBS AND OTHER ENTITIES LICENSED OR EMPLOYED IN THE SALES AND SERVICE OF ALCOHOLIC BEVERAGES TO PARTICIPATE IN AND COMPLETE A MANDATORY RESPONSIBLE BEVERAGE SERVER TRAINING PROGRAM THAT INCORPORATES MINIMUM STANDARDS FOR TRAINING CERTIFICATION; AND FURTHER REQUIRING THAT ALL TRAINING REQUIRED BE COMPLETED WITHIN 120 DAYS OF THE EFFECTIVE DATE OF THIS ORDINANCE AND REQUIRING THAT ALL PERSONS WHO COMPLETE THE TRAINING TO BE RE-CERTIFIED NOT LESS THAN ONCE EVERY THREE (3) YEARS; AND FURTHER PROVIDING THAT ANY PERSON, CORPORATION, LICENSEE, RESTAURANT OR BUSINESS WHO VIOLATES THIS ORDINANCE SHALL, UPON CONVICTION THEREOF, BE FINED IN AN AMOUNT NOT TO EXCEED \$100.00, WITH A MAXIMUM FINE OF \$500.00 FOR SUBSEQUENT VIOLATIONS WITHIN A TWO-YEAR PERIOD.

WHEREAS, the City of Owensboro, Kentucky, has been working closely with River Valley Regional Prevention Center and Community Solutions for Substance Abuse to identify and address local concerns about underage access to alcoholic beverages and impairment issues and risks associated with the legal consumption of alcoholic beverages in the Owensboro community; and

WHEREAS, River Valley Regional Prevention Center and Community Solutions conducted a survey to assess the Owensboro community's perceptions on issues related to alcohol availability, responsible beverage serving requirements, special events and festivals, law enforcement and alcohol/drug abuse; and

WHEREAS, the foregoing community surveys and assessments suggest that there is public concern regarding the availability of alcohol to persons under the age of twenty-one (21) and the effects of alcohol impairment in our community; and

WHEREAS, there is a general consensus that persons under the age of twenty-one (21) can easily purchase alcoholic beverages, often without showing age identification and that alcohol sales to individuals who are already intoxicated poses a significant risk of death or serious injury to the motoring public as well as potential legal liability for businesses whose employees serve alcohol to impaired individuals or motorists; and

WHEREAS, the Board of Commissioners finds and declares that persons licensed for the sale of alcoholic beverages and their employees, would be less inclined to sell or serve

alcoholic beverages to underage persons or adults who have become intoxicated through the consumption of alcoholic beverages if they are properly trained and educated through a responsible beverage server training course that meets certain standards of certification; and

WHEREAS, in order to protect and promote the health, safety and welfare of the citizens of Owensboro, increase public education and awareness, reduce the consumption of and access to alcoholic beverages by persons under the age of twenty-one (21), reduce the risk of liability to persons, restaurants, and businesses licensed for the sale of alcoholic beverages that are associated with alcohol impairment and to improve the overall quality of life in the City of Owensboro, it is the desire and intention of the Board of Commissioners to adopt an ordinance requiring all persons licensed for or employed in the sale of, alcoholic beverages to complete a mandatory responsible beverage server training program based on certain minimal criteria that are approved by the City Manager, at least once every three (3) years.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF OWENSBORO, KENTUCKY, AS FOLLOWS:

Section 1. That Chapter 3, Article II of the Owensboro Municipal Code be amended by inserting new language in Section 3-35 (now reserved) to be entitled “Mandatory Responsible Beverage Service Training; Standards for Certification,” as follows:

Section 3-35. Mandatory responsible beverage service training; standards for certification.

(a) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed or employed in the sales and service of alcoholic beverages, including the retail sale of alcoholic beverages by the package or drink, shall participate in and complete a mandatory responsible beverage service training program approved by the City Manager of the City of Owensboro or the City Manager’s designee. Before approval is granted, the City Manager or his designee shall first be satisfied that the training program is genuine and effectively trains all participants in the recognition of false identification and age documents as well as the human characteristics of alcohol and/or drug intoxication. The City shall not require enrollment in any particular class or classes, but only require that the training be obtained from a recognized person, program or agency with a bona fide curriculum that meets the goals expressed herein.

(b) All persons, corporations, associations, restaurants, businesses, clubs or other entities licensed by the City of Owensboro for the sale of alcoholic beverages shall require all their employees who are engaged in the selling or serving of alcoholic beverages or the managing of premises on which such sales are offered to complete a responsible beverage service training class approved by the City Manager of the City of Owensboro or the City Manager’s designee.

(c) Subsections (a) and (b) above shall not apply to any manufacturer of alcoholic beverages as this term is defined in KRS 241.010(29) or any other person, corporation, association, business or other entity licensed for the wholesale of alcoholic beverages.

(d) Standards for Certification. The training person or agency must reasonably instruct upon and certify the participants' competence in at least the following:

1. Pertinent federal, state and local laws related to the sale of alcohol;
Verification of age, forms of identification and usual methods of false or misleading age identification;

The effect of alcohol on humans and the physiology of alcohol intoxication, including the effect of alcohol on pregnant women, their fetuses and other situations involving the use of alcohol by persons vulnerable to its effects;

Recognition of the signs of intoxication;

Strategies for intervention and prevention of underage and intoxicated persons from consuming alcohol.

The licensee's policies and guidelines, including the employee's role in observing those policies; and

7. Potential liability of persons serving alcohol.

The person providing the responsible beverage service training shall be certified by the government agency, industry or organization that sponsors or develops the training curriculum.

(e) All persons required to undergo the training set forth in paragraph (a) above shall complete same within one hundred twenty (120) days of the effective date of this ordinance. New licensees, employees, officers and agents shall complete the mandatory responsible beverage service training within sixty (60) days from the date of employment. Licensees, employees, officers or agents who fail to complete the mandatory responsible beverage service training within the prescribed time shall not sell or serve alcoholic beverages on the licensed premises until they have successfully completed the required training. All persons completing the training requirements in this section shall be recertified in responsible beverage service training from a program approved by the City Manager or his designee under the foregoing criteria not less than once every three (3) years thereafter.

(f) Personnel Certification Records. Each licensee shall maintain written proof of completion of service training on its business premises for each person connected with its business for whom training is required under this ordinance. Training records shall be retained by the licensee for a minimum of three (3) years. Upon request of the Alcoholic Beverage Control Administrator, all licensees and other persons engaged in the sales or service of alcoholic beverages by the package or drink shall present proof of completion of the responsible beverage service training required herein.

(g) Penalties:

(1) No person, corporation, association, restaurant, business, club or other entity holding a license for the sale of distilled spirits, wine and/or malt beverages by the

package or drink shall intentionally, willfully, knowingly, or wantonly authorize, direct, permit, allow or cause any employee, officer or agent of the licensee who has not completed the mandatory service training required in this section, to sell or serve any alcoholic beverages to anyone on the licensed premises.

(2) Any person, corporation, licensee, association, restaurant, business, club or other entity or any employee thereof, found to be in violation of any subsection of this ordinance, shall upon conviction thereof, be fined in an amount not to exceed One Hundred Dollars (\$100.00); for subsequent violations within a two (2) year period and upon conviction thereof, a fine not to exceed Five Hundred Dollars (\$500.00). Each day a violation occurs shall constitute a separate offense.

Section 2. All prior ordinances or parts thereof, in conflict with the provisions of this ordinance, are to the extent of any such conflict, hereby repealed.

Section 3. This ordinance shall become effective upon its adoption and publication according to law.

INTRODUCED AND PUBLICLY READ ON FIRST READING, this the 3rd day of February, 2004.

PUBLICLY READ AND FINALLY APPROVED ON SECOND READING, this the 17th day of February, 2004.

Mayor

ATTEST:

City Clerk

APPENDIX B: Age Identification Policies

Age identification policies are a key component of making mandatory compliance checks work. Even though it is illegal to sell alcohol to anyone under the age of 21, underage youth can often easily purchase alcohol with either no age identification or with poor quality false IDs. Establishments selling alcohol should be encouraged to check the identification of everyone who appears to be under the age of 30. Checking IDs decreases the potential liability a server or seller could face for selling alcohol to an underage person. An identification policy that is enforced could also reduce the potential liability of the owners of the establishment who might be sued for illegal sales that result in an injury to a third party. Identification policies should include:

- refusing to sell to persons without a valid ID,
- increasing detection of false IDs, and
- following set procedures when checking each ID, such as:
 - checking ID expiration dates,
 - checking the birth date,
 - checking the date the ID was issued,
 - checking the photo for resemblance to buyer,
 - comparing dates on the back with those on the front of the ID, and
 - checking the ID of everyone at the counter or table to make sure they all comply with the age regulations.

Coalitions can contact establishments selling alcohol to inquire about their written alcohol-related policies. If the establishment does not have an identification checking policy, it should be strongly encouraged to adopt one. Additionally, compliance checks and administrative penalties can be put in place to increase the pressure on merchants to enact an ID checking policy.

Information from Strategizer #28: Preventing Youth Access to Alcohol From Commercial Sources.

Online: Available at http://www.cspinet.org/booze/Youth_Access.pdf

APPENDIX C: Open House Assembly Sample Ordinance

(Based on a Farmington, MI Ordinance, # 80.455)

OPEN HOUSE ASSEMBLY

Section 1. Definitions.

"Adult" - A person 18 years of age or older.

"Alcoholic Beverage" - Any beverage containing more than one-half of one percent alcohol by volume.

"Residence or Premises"- A hotel or motel room, home, yard, apartment, condominium, or other dwelling unit, or a hall, meeting room or other place of assembly, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for social functions, and whether owned, leased, rented or used with or without compensation.

"Open House Assembly" - A social gathering of three (3) or more persons at a residence, other than the owner or those with rights of possession or their immediate family members.

"Control" - Any form of regulation or dominion including a possessory right.

Section 2. Prohibition.

No adult having control of any residence or premises shall allow an open house assembly to take place or continue at this residence or premises if:
at the open house assembly any person under the age of twenty-one (21) years possesses or consumes any alcoholic beverage, in violation of KRS 244.085.
the adult knows or reasonably should know that a person under the age of twenty-one (21) years will or does possess or consume any alcoholic beverage at the open house assembly, in violation of KRS 244.085 and
the adult fails to take reasonable steps to prevent the possession or consumption of the alcoholic beverage by such persons under the age of twenty-one (21) years in violation of KRS 244.085.

Section 3. Presence of Adults

Whenever an adult having control of a residence or premises is present in that residence or premises at the time of the violation of Section 2, it shall be prima facie evidence that such person knew of this violation.

Section 4. Protected Activities.The provisions of this section shall not apply to legally protected religious observances.

Section 5. Repealer.All ordinances or parts of ordinances are repealed only to the extent necessary to give this ordinance full force and effect.

Section 6. Penalties.The penalties for violation of this section shall be as follows:

- a. For the first violation, a fine not exceeding one hundred dollars (\$100).
- b. For subsequent violations a fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1000).

This ordinance shall take effect immediately.

APPENDIX D : Mandatory Keg Registration Ordinance

Bowling Green, Kentucky

4-9.08 Keg Registration

- a. As used in this section, ““keg”” is defined as a container designed and capable of holding six (6) or more gallons of malt beverage.
- b. All retail licensees (herein after referred to as ““licensee””) operating within the City of Bowling Green who sell malt beverages in kegs for consumption off the premises of the licensee shall attach a numbered identification tag or other device as provided by the City to each keg at the time of sale and shall require the purchaser to complete and sign a keg registration form for the keg stating the following:
 1. The purchaser is of legal age to purchase, possess and use the malt beverage,
 2. The purchaser is not purchasing the keg for resale and will not allow any person under the age of twenty-one (21) to consume the malt beverage,
 3. The purchaser will not remove, obliterate or allow to be removed or obliterated the identification tag,
 4. The purchaser will state the property address where the keg will be consumed and physically located; and,
 5. The purchaser is aware of his/her duty to maintain a copy of the keg registration form visible and readily accessible from the location of the keg.
- c. The licensee shall obtain the name, address and telephone number of the purchaser and shall require the purchaser to produce a valid driver’s license number and, if that is not available, to produce at least one other valid form of identification.
- d. The licensee shall retain copies of the keg registration forms for a period of one year and shall make the keg registration form available for inspection by state and local alcoholic beverage control officers and other enforcement officers.
- e. The keg registration form shall be forwarded to the city administrator within five (5) working days in all situations when the keg is not returned or is returned with the identification tag removed or obliterated.
- f. The city administrator is authorized to develop appropriate rules and regulations and to develop and make available forms for the identification tags and keg registration forms.
- g. All licensees that sell or offer for sale kegs shall post on the licensed premises a notice provided by the City concerning the provisions of this Section.
 - h. It shall be unlawful for any licensee to sell or offer for sale kegs without the identification tags attached and the keg registration form completed. It shall also be unlawful for any person to remove or to obliterate the identification tag or to fail to have

the declaration form visible and readily accessible from the location of the keg. The penalties for violation of this section shall be the penalties as set out in Subchapter 4-10 herein below. In addition, licensees violating this section shall be subject to appropriate alcoholic beverage control administrative remedies.

(Ord. BG98-43, 9/1/98)

APPENDIX E. Example of Keg Registration Form:

COUNTY NAME: : _____

KEG REGISTRATION IDENTIFICATION FORM – IDENTIFICATION # _____

Name of Purchaser (Print) _____

Type of ID shown _____ ID# _____ DOB _____

Address _____ City State Zip _____

Location where keg will be consumed _____ Date(s) _____

I am at least 21 years of age and understand that alcoholic beverages purchased under this receipt can only be consumed at the address and on the dates listed above, that the purchasing of alcoholic beverages for a person under 21 years of age and furnishing alcoholic beverages to a person under 21 years of age are violations of KRS 244.085 and that such violations may result in civil liability or criminal prosecution, or both. I further acknowledge that removal or obliteration of the keg registration label is a violation of _____ and that such violations may result in criminal prosecution as set forth in _____, and will result in the container deposit made at the time of purchase, not being returned.

Signature of Purchaser (Date)

A total of _____ keg(s) of malt beverage was/were sold to the above individual in the following size(s):

by: _____ On: _____
(Name of Seller) (Date of Sale)

Trade name of business _____
State License number Address _____
City State Zip _____

Date Returned . The Registration label was was not intact.
Keg registration fee: _____

FOR THE PURCHASE OF MORE THAN ONE KEG, RECORD IDENTIFICATION NUMBERS BELOW

KEG ID NUMBER	KEG ID NUMBER	KEG ID NUMBER	KEG ID NUMBER
_____	_____	_____	_____

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