

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda—underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

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For more on these corporations, search at www.SourceWatch.org.

DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as "equals" in "unison" with politicians to write laws to govern your life. Big Business has "a VOICE and a VOTE," according to newly exposed documents. **DO YOU?**

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Underage Drinking Prevention and Enforcement Act

Did you know the NRA--the National Rifle Association--was the corporate co-chair in 2011?

Summary

This legislative language is designed to modify specific aspects of [name of state]'s existing laws to prevent the sale, furnishing, access to and the possession and consumption of alcohol by persons under the legal drinking age. The sections of the model bill include language to enhance existing law with respect to the following: parental notification; false identification documents; serving, giving, purchasing for, or selling alcohol to persons under the legal drinking age; criminal liability for adults who enable underage drinking parties; prohibiting possession, consumption, and attempted purchase of alcohol by persons under the legal drinking age; guidelines for the use of persons under the legal drinking age in underage alcohol purchase investigations; establishing consistent policies and sanctions for the possession and use of alcohol on school property for a school which includes any grades K-12 or while attending a school function by persons under the legal drinking age.

Section 4 addresses parental notification and is based on surveys and studies indicating that parents are the primary influence on their children's decisions and that parental involvement is essential in supporting a young person's efforts to seek and obtain basic support and encouragement as well as any appropriate professional assistance.

Section 5 addresses the manufacture, sale, use, attempted use, and possession of false IDs for the purpose of illegally obtaining alcohol beverages. This area requires additional attention in part to simplify administration of justice and in part to recognize the prevalence of the use of false identification and specifically address different methods that underage persons use to illegally purchase alcohol. This subject should be fully addressed within the state alcohol beverage code in conjunction with provisions establishing the legal drinking age.

Section 6 addresses the issue of adults above the legal drinking age furnishing alcohol to persons under the legal drinking age and is based on a number of studies that indicate that a substantial majority of the alcohol consumed by those under the legal drinking age is provided by parents, siblings, co-workers, fellow students, or other adults of legal drinking age.

Section 7 addresses situations where adults above the legal drinking age knowingly make their property available for parties at which alcohol is consumed by persons under the legal drinking age. According to law enforcement officers, specific legislative sections should address those who host or knowingly permit illegal underage drinking to occur on property they own or control.

Section 8 is a concise and comprehensive formulation of a prohibition on possession, consumption, purchase, and attempted purchase of alcohol by persons under the legal drinking age with penalties.

Section 9 is a codification of standards for the use of persons under the legal drinking age in law enforcement investigations or compliance checks of licensees.

Section 10 is an effort to align alcohol policies in schools that include any grades K-12 in support of the state's laws establishing the legal drinking age.

Model Legislation

Section 1. {Short title} Underage Drinking Prevention and Enforcement Amendment/Act

Section 2. {Legislative Declaration} The purpose of this amendment/act is to reduce the purchase, possession, and consumption of alcohol by persons under the legal drinking age.

Section 3. {Findings} The {Insert Name of Legislative Body} of this State makes the following findings:

(A) According to government and reliable independent research, such as from the University of Michigan, Monitoring the Future Study; National Highway Traffic Safety Administration, U.S. Dept. of Transportation; and Partnership for a Drug Free America, significant reductions in incidents of illegal underage drinking and related harms have occurred through the tireless efforts of [insert name of state] and local law enforcement and the active support of innumerable concerned citizens and responsible licensees doing business in [name of state]. Those efforts to effectively combat illegal underage drinking include a comprehensive system approach; the elements of which are sound laws, strict enforcement, even-handed adjudication, and state-wide education.

(B) To sustain and further the progress achieved to date, enhancements are required to address the purchase, possession, and consumption of alcohol by persons under the legal drinking age, a significant number of whom continue to violate the laws of [name of state] posing unacceptable risks to their health and safety and that of all citizens. The [name of legislature] finds that amendments based on recent and credible policy research are warranted in the following areas [edit list as appropriate to the needs of the specific state]:

- (1) Parental notification;
- (2) Manufacture, sale, possession, display, use, or attempted use of false identification to illegally obtain alcohol beverages;
- (3) Adults serving, giving, or selling alcohol beverages to or purchasing alcohol beverages for persons under the legal drinking age;
- (4) The hosting of parties on public or private property at which underage persons are permitted or encouraged to illegally consume alcohol by adults of legal drinking age;
- (5) Possession, consumption, and attempted purchase of alcohol beverages by persons under the legal drinking age;
- (6) Guidelines for use of persons under the legal drinking age in investigations; and
- (7) Effective K-12 school district alcohol policies that support underage drinking laws.

Section 4. {Parental Notification}

(A) When a person under age 18 is cited or arrested for a violation of [insert appropriate sections of state law], the law enforcement agency employing the arresting officer [or the court arraigning the person or adjudicating the charges] shall make a reasonable attempt to notify such person's custodial parent or guardian of the citation, arrest, or conviction. (Cf. Neb.Rev.St. § 54-180.05)

Section 5. {Manufacture, Sale, Possession, Display, Use, or Attempted Use of False Identification Document to Illegally Obtain Alcohol Beverages}

(A) Definition

The term "identification document" means any document issued by the Secretary of State or other state official, the United States Government, any other state or political subdivision thereof, or any governmental or quasi governmental organization that includes a computerized number or file, and any information concerning a person's name, sex, date of birth, or such person's photograph including without being limited to a passport, military identification card, permanent resident card, driver's license, or any similar document customarily accepted for the purpose of verifying the age of a person purchasing alcohol beverages. (Cf. Ga. Code Ann. 16-9-4 (a) and 15 I.L.C.S. 335/14A)

(B) Unlawful Use of Identification Document

It is a violation of this section for any person:

(1) To possess, display, or cause to be displayed any identification document that has been cancelled, suspended, or revoked within [insert number] days of notice of cancellation, suspension, or revocation being sent;

(2) To possess, display, cause to be displayed any identification document that has been unlawfully physically altered or mutilated to falsify or obscure identifying information;

(3) To possess, display, cause to be displayed any forgery, copy, simulation, or other facsimile of an identification document;

(4) To display or represent as the person's own any identification document issued to another;

(5) To allow any unlawful use of an identification document issued to the person; or

(6) To lend an identification document to another or knowingly allow the use thereof by another; for the purpose of purchasing alcohol beverages at any business licensed under this title in violation of [insert state citation establishing legal drinking age].

(C) This section does not prohibit any lawfully authorized investigative, protective, law enforcement, or other activity of any agency of the United States, State of [insert name], or any other state or political subdivision thereof.

(D) Violations and Penalties

(1) Any person convicted of a violation of subsection (B) shall be guilty of an infraction [or analogous classification] on the first offense, a misdemeanor on the second offense, and a [insert class] felony on any subsequent offense.

(2) Any juvenile and any other person convicted of a first violation of this subsection (B) shall be sentenced to a minimum fine of [insert amount] or a minimum of [insert number] of community service, preferably in support of an alcohol abuse prevention program or organization, if available. (Cf. 15 I.L.C.S. 335/14)

(3) For a second or subsequent violation of subsection (B), the person shall be subject to [insert cite for general misdemeanor or felony penalties or insert specific penalty].

(4) For a second or subsequent violation of subsection (B), any juvenile shall be [insert state terminology for adjudication of juvenile delinquency].

(E) It is unlawful for any person to agree to supply or to aid in supplying (i.e., manufacture, sale, or distribution) any person with an identification document by any means whatsoever that can be used for misrepresentation of age or identity for fraudulent purchase of alcohol beverages. A violation is a felony punishable by up to [insert term] of days of imprisonment and a fine of up to [insert number] dollars. (Based

Section 6. {Adults Serving, Giving, or Selling Alcohol Beverages to or Purchasing Alcohol Beverages for Persons Under the Legal Drinking Age}

(A) It is unlawful for a person to transfer or give to a person under the legal drinking age for the purpose of consumption any alcohol beverage at any place in the State. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than [insert number] dollars or imprisoned not more than [insert term] days. A person who violates this section a second or subsequent time is guilty of a [insert higher class] misdemeanor and, upon conviction, must be fined not more than [insert graduated number] dollars or imprisoned not more than [insert graduated term] days.

(B) The provisions of this section do not apply to [insert exemptions already contained in state code or use following list] - (mostly from Cf. SC Code Ann. 61-6-4070(5)(A)(d))

(1) a spouse over the age of twenty-one giving alcohol beverages to his or her spouse under the age of twenty-one in the presence of the legally-aged spouse (optional place restrictions); or

(2) a parent or guardian over the age twenty-one giving alcohol beverages to his or her children or wards under the age of twenty-one in the presence of the parent or guardian (optional place restrictions); or

(3) to a person giving alcohol beverages to another person under the age of twenty-one in conjunction with a religious ceremony or other such purpose; or

(4) exclusions for alcohol beverages to be served to a student under the age of twenty-one, as part of a culinary school (with acceptable practices delineated) or to a student in a curriculum licensed or registered by the state education department and is required to taste or imbibe alcoholic beverages in courses which are part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during classes conducted pursuant to such curriculum, or (Cf. N.Y. Alco. Bev. Cont. s. 65).

Section 7. {Criminal Liability for Adults Who Enable Parties Involving Underage Drinking - Laws that single out adults enabling drinking parties on their property for additional penalties. (Cf. Mich. Comp Laws Ann. § 750.141[a])}

(A) Except as otherwise provided in subsection (B), an owner, tenant, or other person having control over any premises, residence, or other real property shall not knowingly allow persons under the legal drinking age to consume or possess an alcohol beverage at a social gathering on or within that premises, residence, or other real property. "Social gathering" means an assembly of 2 or more individuals for any purpose, unless all of the individuals attending the assembly are members of the same household or immediate family. Each social gathering constitutes one violation.

(B) This section does not apply to the use, consumption, or possession of an alcohol beverage by an individual pursuant to a lawful prescription, or to the use, consumption, or possession of an alcohol beverage by a person under the legal drinking age for religious purposes [insert any other exceptions in existing law].

(C) Except as provided in subsection (D), a person who violates subsection (A) is guilty of a misdemeanor punishable by imprisonment for not more than [insert term] days or by a fine of [insert amount] dollars, or both.

(D) For a second or subsequent violation of subsection (A) the person is guilty of a misdemeanor punishable by imprisonment for not more than [insert graduated term] or by a fine of [insert graduated amount], or both.

(E) Evidence of all of the following gives rise to a rebuttable presumption that the defendant allowed the consumption or possession of an alcohol beverage on or within a premises, residence, or other real property, in violation of this section:

(1) The defendant had control over the premises, residence, or other real property.

(2) The defendant knew that a person under the legal drinking age, other than his or her own child or spouse, was consuming or in possession of an alcohol beverage at a social gathering on or within that premises, residence, or other real property.

(3) The defendant failed to take corrective action to stop violations of underage drinking laws.

(F) This section does not authorize selling or furnishing an alcohol beverage to a person under the legal drinking age.

(G) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

Section 8. {Possession, consumption, purchase, and attempted purchase of alcohol beverages by persons under the legal drinking age (Cf. Colorado §18-13-122 and Missouri §311.325-6)}

(A) Any person under the legal drinking age, who purchases or attempts to purchase, or has in his or her possession, any ethyl alcohol or who is visibly intoxicated or has a detectable blood alcohol content of more than [insert state standard for zero tolerance for underage drinking and driving] commits a strict liability offense and is guilty of a [insert infraction or misdemeanor]. For purposes of prosecution under this section involving an alleged illegal sale or transfer of ethyl alcohol to a person under the legal drinking age, a manufacturer-sealed container describing that there is ethyl alcohol therein need not be opened or the contents therein tested to verify that there is ethyl alcohol in such container. The alleged violator may allege that there was not ethyl alcohol in such container, but the burden of proof of such allegation is on such person, as it shall be presumed that such a sealed container describing that there is ethyl alcohol therein contains ethyl alcohol.

(B) Upon conviction of a first offense, illegal possession, consumption, or attempted purchase of ethyl alcohol by an underage person shall be punishable by a fine of [insert amount]. The court, upon sentencing a defendant pursuant to this subsection (B), may, in addition to a fine, order that the defendant perform up to [insert number] hours of useful public service, and may further order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own cost.

(C) Upon conviction of a second offense, illegal possession, consumption, or attempted purchase of ethyl alcohol by an underage person shall be punished by a fine of [insert graduated amount], a driver's license suspension of [insert number] days, and the court shall order the defendant to submit to and complete an alcohol evaluation or assessment, or an alcohol education program, at the defendant's own expense. The court may further order the defendant to perform up to [insert graduated number] hours of useful public service.

(D) Upon conviction of a third or subsequent offense, illegal possession, consumption, or attempted purchase of ethyl alcohol by an underage person shall be guilty of a [insert class of misdemeanor], and the court shall order that the defendant submit to and complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program at such defendant's own cost.

(E) After a period of not less than one year, or upon reaching the age of twenty-one, whichever occurs first, a person who has pleaded guilty to or has been found guilty of a violation in this section for the first time, and who since such conviction has not been convicted of any other alcohol-related offense, may apply to the court in which he or she was sentenced for an order to expunge all official records of his or her arrest, plea, trial and conviction. If the court determines, upon review, that such person has not been convicted of any other alcohol-related offense at the time of the application for expungement, and the person has had no other alcohol-related enforcement contacts, the court shall enter an order of expungement. The effect of such an order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never happened. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose whatsoever. A person shall be entitled to only one expungement pursuant to this section. Nothing contained in this section shall prevent courts or other state officials from maintaining such records as are necessary to ensure that an individual receives only one expungement pursuant to this section.

(F) The provisions of this section do not apply to [insert exemptions already contained in state code or use following list] - (mostly from Cf. SC Code Ann. 61-6-4070(5)(A)(d))

(1) a spouse over the age of twenty-one giving alcohol beverages to his or her spouse under the age of twenty-one in the presence of the legally-aged spouse (optional place restrictions);

(2) a parent or guardian over the age twenty-one giving alcohol beverages to his or her children or wards under the age of twenty-one in the presence of the parent or guardian (optional place restrictions);

(3) to a person giving alcohol beverages to another person under the age of twenty-one in conjunction with a religious ceremony or other such purpose;

(4) exclusions for alcohol beverages to be served to a student under the age of twenty-one, as part of a culinary school (with acceptable practices delineated) or to a student in a curriculum licensed or registered by the state education department and is required to taste or imbibe alcoholic beverages in courses which are part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during classes conducted pursuant to such curriculum, or (N.Y. Alco. Bev. Cont. s. 65); or

(5) an employee legally serving alcohol beverages in a licensed establishment.

Section 9. {Guidelines for the use of persons under the legal drinking age in investigations and compliance checks}

(A) The [insert name of state alcohol beverage control agency] shall not use persons under the legal drinking age, to enforce the alcohol beverage laws in this state, unless the [insert name of state alcohol beverage control agency] promulgates rules and regulations that establish standards for the use of such persons. The standards shall include those in subsection (B) of this section.

(B) The [insert name of state alcohol beverage control agency] shall establish permissive standards for the use of persons under the legal drinking age in compliance checks and investigations by any state, county, municipal, or other local law enforcement authority, and which shall, at a minimum, provide for the following:

(1) The person shall be under twenty-one years of age;

(2) The person shall carry his or her own identification document, which is any document issued by the Secretary of State or other state official, the United States Government, any other state or political subdivision thereof, or any governmental or quasi governmental organization that includes a computerized number or file, and any information concerning a person's name, sex, date of birth, or such person's photograph including without being limited to a passport, military identification card, permanent resident card, driver's license, or any similar document customarily accepted for the purpose of verifying the age of a person purchasing alcohol beverages. This document shall show the person's correct date of birth and person shall, upon request, produce such identification to the seller of the alcohol at the licensed establishment;

(3) The person shall answer truthfully any questions about his or her age and shall not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of alcohol; and

(4) The person has received parental or guardian consent, if under eighteen years of age.

(C) The [insert name of state alcohol beverage control agency] shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the state's alcohol beverage control agency's permissive standards.

(D) Any persons under the legal drinking age used in investigations under this section shall be exempt from any violations related to purchasing or obtaining alcohol, during the time they are under direct control of the state, county, municipal, or other law enforcement authorities.

(E) A licensee who is the subject of the enforcement action or compliance check under this section and is found to be in compliance with this act shall be notified within thirty days of the finding by the enforcement agency that no violation was found. (Cf. Missouri § 311.722 and I.L.C.S. 5/6-16.1)

Section 10. {Requiring Public Schools to Develop an Alcohol Policy}

(A) Every K-12 school district shall develop a policy by [insert date], detailing the consequences that will result for a student at school if the student is found to be under the influence, in possession or drinking alcohol either on school property, while representing the school at extracurricular activities, while in transit to and from school and school events, or while attending a school event. (Cf. Mo. Rev. Stat. § 160.069)

[States may also choose to extend this requirement to higher education institutions.]

Section 11. {Severability Clause}

Section 12. {Repealer Clause}

Section 13. {Effective Date}

*Adopted by ALEC's Criminal Justice Task Force at the Annual Meeting, July 20, 2006.
Approved by the ALEC Board of Directors August, 2006.*

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