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# Wisconsin Briefs

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## THE MINIMUM DRINKING AGE IN WISCONSIN

### I. INTRODUCTION

The United States currently has a uniform drinking age of 21, largely because the federal government enacted legislation that would withhold a portion of federal highway aids from any state that did not adopt 21 as the minimum age for purchase and public possession of alcohol-containing beverages. In response to the federal legislation, Wisconsin enacted 1985 Wisconsin Act 337, effective September 1, 1986, stating no one under the age of 21 may legally purchase, possess, or consume alcohol-containing beverages except when accompanied by a parent, guardian, or spouse of legal drinking age, and in certain other limited circumstances.

While some states have maintained a fairly consistent drinking age since the repeal of Prohibition, the matter has been a constant subject of controversy in Wisconsin. Lawmakers have repeatedly debated whether 18-20 year-olds should be allowed to buy and consume alcohol-containing beverages, which beverages they can buy and where they can buy and consume them.

### II. A SUMMARY OF WISCONSIN DRINKING AGE LAWS

#### **Territorial and Early Statehood Years — Age 18 for Liquor and Wine**

Wisconsin's first law to control drinking by minors did not mention beer, but it did specify that the minor had to have permission to buy liquor or wine. The Territorial Statutes of Wisconsin, published in 1839, provided:

No tavern-keeper or grocer, or other person licensed as aforesaid, shall sell any spirituous liquors, or wines, to any minor, apprentice or servant, under the age of eighteen years, without the consent of the father, mother or guardian of such minor, or the master of such apprentice or servant. (page 124)

When Wisconsin achieved statehood in 1848, the territorial law was continued as a state statute.

#### **1866 — Age 21**

The first complete prohibition of drinking by minors was enacted by Chapter 36, Laws of 1866, which covered beer, wine and whiskey. All were forbidden to minors. Although "mi-

nor” was not specifically defined until the Revised Statutes of 1878 (Section 3962), prior to that the term was generally understood to mean a person under the age of 21.

### **1919–1933 — Prohibition**

The law forbidding sale of alcohol-containing beverages to minors remained in effect until 1919, when the 18th Amendment to the U.S. Constitution banned the “manufacture, sale, or transportation of intoxicating liquors” throughout the United States. Following ratification of the 18th Amendment, Wisconsin struck its liquor laws from the statutes by Chapter 556, Laws of 1919, and Chapter 441, Laws of 1921. Technically there was no Wisconsin law prohibiting drinking by persons of any age, but the federal laws prohibiting the sale of alcoholic beverages were the controlling legislation.

### **1933 — Repeal of Prohibition and Local Option**

In 1932, six months before federal repeal of Prohibition, the U.S. Congress passed the Cullen Beer Act (P.L. 73-4), which permitted the sale of 3.2% beer and light wines. Less than three months later Wisconsin took advantage of the new federal law by passing Chapter 207, Laws of 1933, which permitted Wisconsin taverns to sell 3.2% beer and light wines, but sale of these beverages by wholesalers and retailers to anyone under the age of 18 was prohibited unless the minor was accompanied by a parent or guardian.

After the U.S. Constitution was amended to repeal Prohibition, Governor Albert Schmedeman called a special session of the legislature to enact laws governing the sale of alcohol-containing beverages in Wisconsin. Chapter 1 of the 1933 Special Session Laws removed the 3.2% provision to broaden the law to permit the sale of all beer, but the 18-year-old limit was continued. Chapter 13 of the 1933 Special Session Laws created Chapter 176, Wisconsin Statutes, pertaining to intoxicating liquors. Section 176.30 prohibited sale of intoxicating liquors to minors even with parental permission. A minor was defined as a person under 21, and the legal definition of intoxicating liquor included wine but specifically excluded fermented malt beverages.

As a result of these separate laws, Wisconsin emerged from Prohibition with two types of establishments authorized to serve alcoholic beverages: one which could sell intoxicating liquors to persons aged 21 and over and another which could sell only beer to persons aged 18 and over.

Chapter 13 of the 1933 Special Session Laws also allowed cities, villages and towns to make laws on the sale of fermented malt beverages not in conflict with the terms of Section 66.054 (13). Many localities used this option to enact a minimum drinking age of 21 for both kinds of beverages. Thus, in some parts of the state, persons 18 years old or older could drink beer but not wine or liquor, while in other places they could not drink any intoxicant until age

21. (Chapter 564, Laws of 1955, specifically confirmed that a municipality could make 21 the local minimum drinking age for beer.)

### **1943-1963 — State Control of Drinking Tightened**

For half a century between 1935 and 1985 repeated attempts were made to raise the drinking age for beer. None passed, but the period did see a gradual tightening of the controls over drinking by persons under 21. For example, Chapter 447, Laws of 1943, expanded the law which prohibited the sale of fermented malt beverages to persons under the age of 18 to prevent their being “dispensed, given away or furnished” to such minors unless accompanied by a parent or guardian. This made it more difficult for teenagers to procure alcohol-containing beverages. Chapter 406, Laws of 1947, required identification cards for the first time as proof of age. The trend was continued by Chapter 143, Laws of 1963, which prohibited the sale of fermented malt beverages to or their possession by unaccompanied persons under 21 when consumption was to occur outside licensed buildings. The 1963 Legislature made its intent clear: “It is the legislative intent hereof to require that persons under the age of 21 be permitted to consume fermented malt beverages only under the supervision of parent, guardian, spouse or properly licensed persons.”

### **1957 — Out-of-State Residents**

Chapter 267, Laws of 1957, created Section 66.054 (22), Wisconsin Statutes, which prohibited purchase of beer by persons under 21 who were residents of states bordering Wisconsin if their home states had a minimum drinking age of 21. The residency of college students and military personnel was determined by their respective campuses and military bases. (When Wisconsin lowered its age of majority to 18, the minimum drinking age in Section 66.054 (22) was changed from 21 to 18. The section eventually was repealed by Chapter 64, Laws of 1977.)

### **1971 — Age of Majority and Drinking Age Lowered to 18**

In 1971 the voting age for federal elections was lowered from 21 to 18 by the 26th Amendment to the U.S. Constitution, and the legislature subsequently lowered Wisconsin’s age of majority from 21 to 18 by Chapter 213, Laws of 1971, which took effect on March 22, 1972. From that time until 1984 it was legal for anyone 18 years of age or older to purchase and drink both fermented malt beverages and intoxicating liquors in Wisconsin. Between 1975 and 1983, however, there were numerous legislative attempts to raise the minimum drinking age.

### **1979 Legislation — Enforcement and Education**

Chapter 331, Laws of 1979, sought to reduce teenage drinking by a variety of educational and enforcement measures. The law created a citation (similar to a traffic ticket) that could be issued to minors possessing liquor. Penalties included a forfeiture of up to \$25 for a first offense, and suspension of the person’s driving license for subsequent offenses, even those not involving a motor vehicle. A citation and civil forfeiture procedure was also established for

individuals who provided liquor to minors. Forfeitures could total \$500 and liquor licenses could be suspended. Unless specifically permitted by a school administrator, alcohol possession or consumption was outlawed on school premises, at school-sponsored events, and in vehicles in which students attending the school were present. The law also provided funding to set up school counselling and instructional programs on alcohol abuse and drug abuse.

#### **1984 — Increase to Age 19**

Pressure to raise the drinking age continued through the early 1980s. On October 11, 1982, the Governor's Highway Safety Council passed a resolution calling for an increase in the drinking age, and in December 1982, the Presidential Commission on Drunk Driving called for a nationwide drinking age of 21. Higher drinking ages in neighboring states raised "border crossing" issues as young nonresidents entered Wisconsin to drink — posing law enforcement problems involving drunk driving and other irresponsible behavior.

The most significant age-related drinking law of the 1983 legislative session was 1983 Wisconsin Act 74, effective July 1, 1984, which created a drinking age of 19. The act also included what would later be called an "absolute sobriety" provision that makes any blood alcohol content (BAC) illegal for drivers under age 19. Specific penalties are provided for this group of young drivers if they test for a BAC between 0.0% and 0.10%. (Drivers over 19 who operate with BACs under 0.10% do not incur automatic penalties.) Underage persons are subject to the penalties applied to the general driving population for operating while intoxicated (BACs of .10% or more).

The law created a new statutory concept of "underage". For the first time, certain adults were included in a law that was previously targeted at minors. It also expanded the existing prohibition on unaccompanied public possession and consumption when not in the company of a parent or spouse by deleting the word "public", thereby prohibiting unaccompanied use in both public and private settings.

1983 Wisconsin Act 472 prohibited an adult from knowingly permitting or failing to take action to prevent illegal consumption by an underage person on premises owned by the person or under the person's control. However, an exception was made for beverages used as part of a religious service.

### **III. RECENT LEGISLATION**

#### **1986 — Drinking Age Increased to 21**

On July 17, 1984, President Ronald Reagan signed P.L. 98-363, which required states to conform to a national minimum drinking age (NMDA) of 21. States that did not prohibit the "purchase and public possession" of alcohol-containing beverages by persons under age 21

by October 1, 1986, would lose 5% of their highway aid allocation during the first year of non-compliance and 10% in the second year.

Wisconsin's response to the federal NMDA requirements was not automatic. Passage of the age increase followed considerable debate. Governor Anthony Earl and legislative leaders in both parties initially opposed increasing the age, despite potential financial penalties of \$7 million in 1987 and \$14 million in 1988, and the regular 1985 legislative session ended without a 21 drinking age law. Faced with the inevitability of permanent federal sanctions, however, the governor and some legislative leaders reversed their positions. Meeting in special session at the call of the governor, the legislature enacted 1985 Wisconsin Act 337, which created a 21 drinking age and brought the state into compliance with the NMDA on September 1, 1986.

The NMDA law was amended to permit an exception for those persons who were between ages 18 and 21 on the effective date of the law. (Wisconsin 19- and 20-year-olds were "grandfathered in" by this exception after enactment of Act 337. In effect, the state did not have a uniform age of 21 until September 1, 1988.)

A second NMDA amendment related to a technical defect in the language. As originally written, the law would have withheld funds for fiscal years 1987 and 1988 only. In response, some states increased their minimum age to 21 only long enough to collect their apportionments and then scheduled the provisions to sunset and revert to the previous age. The 1985 NMDA amendment made the federal sanctions permanent so states had to comply fully to avoid sanctions.

Under the NMDA law, "purchase" means "to acquire by the payment of money or other consideration." Although some states also prohibit the "attempt to purchase" and the "selling, giving or serving" of alcoholic beverages to underage individuals, these prohibitions are not required under the federal law. "Public possession" is defined as the possession of a beverage containing 0.5% or more of alcohol by volume "for any reason, including consumption on any street or highway or in any public place or in any place open to the public (including a club which is *de facto* open to the public)."

The legislative history is clear that Congress did not intend the definition to prohibit "possession" in the course of the duties of employment, including selling, transporting, delivering, serving or other handling of alcohol-containing beverages. The prohibition also does not apply to possession for an "established religious purpose", in "private clubs or establishments", or when accompanied by a parent or a spouse or legal guardian over age 21. The exception for accompanied underage persons — one that Wisconsin has had for much of its history — was permitted because the stated purpose of the federal law was to reduce drunk driving. The federal government believed that such an exemption would not undermine this purpose because the older person was expected to deter an underage person from driving drunk. The

law does not prohibit consumption in individual homes, and it makes an exception for medical purposes when the medicine is prescribed or administered by a licensed medical practitioner or institution.

The rationale for enacting the NMDA legislation was that younger drivers are disproportionately represented among alcohol-related accident victims and that a higher drinking age would reduce drunk driving by this age group. Supporters of the NMDA based their argument on statistics which suggest that drunk-driving accidents among 18- to 20-year-olds are disproportionate to their numbers in the general population. By some estimates, their share of all drunk driving accidents was almost twice that of the total driving population. The Council of State Governments (CSG) interpreted the statistics differently. CSG pointed out that more than 99% of licensed drivers aged 19-20 have never been involved in an alcohol-related accident and only 0.6% were responsible for drunk-driving accidents. Furthermore, they concluded that 18- to 20-year-olds were less likely than drivers in the 21-25 or 45-54 age groups to be involved in an alcohol-related accident. A higher drinking age almost certainly reduces the incidence of fatal accidents in the affected age group, but a 21 drinking age would not affect the majority of drunk drivers, they claimed.

Another objective of the NMDA was to create a uniform drinking age from state to state to remove the incentive to travel to neighboring states where the laws were less restrictive. Upon passage of the bill, U.S. Representative Frank R. Wolf (R-VA) said, "We will never know how many lives we have saved. . . . This is one of the most important things we have done."

At the time of the law's passage, three states exempted members of the armed forces from their drinking age laws. The NMDA, however, did not allow for such a blanket exclusion, in part because of the concern for border crossing.

States are not required to adopt any of the exceptions permitted by the federal government, which means state legislation may be more stringent than the federal NMDA law. A state can extend prohibition to accompanied persons, deny a religious exemption, or even enact a drinking age above the 21 minimum.

Originally, seven states had 5% of their fiscal year 1987 apportionments withheld for non-compliance. Of these, Colorado, Idaho, Montana, Ohio, and Tennessee complied by October 1, 1987, and had their funds restored. South Dakota and Wyoming had 10% of their FY 1988 apportionments withheld for noncompliance, but both states subsequently passed new drinking age laws for 1988 and had their funds restored. (Puerto Rico refused to increase its drinking age, and has had the designated portion of its funds withheld since the law became operative.)

The U.S. Supreme Court upheld the NMDA as an appropriate use of federal spending power in *South Dakota v. Dole*, 483 U.S. 203 (1987). South Dakota had challenged the constitutionality of NMDA on the grounds it usurped the states' authority under the 21st Amendment to control the sale of alcohol-containing beverages.

A number of states, as well as several state and local government groups, filed *amicus curiae* briefs in support of South Dakota's appeal. The National Conference of State Legislatures (NCSL) brief contended that while "Congress has the power to spend for the general welfare, it has the power to legislate only for delegated purposes." NCSL rejected the validity of the NMDA saying:

. . . Congress has no power under the Spending Clause to impose requirements on a grant that go beyond specifying how the money should be spent. A requirement that is not such a specification is not a condition, but a regulation, which is valid only if it falls within one of Congress' delegated regulatory powers. (216)

The Court rejected the challenge and said it was reasonable to use the minimum age as a mechanism to promote the general welfare by attempting to reduce drunken driving. Chief Justice William Rehnquist, speaking for the Court's seven-member majority, dismissed South Dakota's legal arguments, calling the law a "relatively mild encouragement to the states to enact higher minimum ages than they would otherwise choose." He concluded that it "remains the prerogative of the states" whether they comply.

Chief Justice Rehnquist contended that Congress passed the law in the interest of the general welfare to achieve a national solution to the perceived border crossing problems. He cited the 1983 report of the Presidential Commission on Drunk Driving and its statement that lack of uniformity creates "an incentive to drink and drive [because] young persons commut[e] to border States where the drinking age is lower." The Court held the NMDA law was related to a "national concern", and the conditional spending approach of the federal government is "within constitutional bounds even if Congress may not regulate drinking ages directly."

Justices Sandra Day O'Connor and William J. Brennan, Jr. dissented separately. Justice Brennan stated that the 21st Amendment gives states full power to regulate liquor and that Congress "cannot condition a federal grant in a manner that abridges this right." Justice O'Connor asserted Congress can make federal grants conditional only "in ways reasonably related to the purpose of the federal program." It could require states to build safe highways with its highway funds, she said, but it could not attach unrelated demands to the funding based on a tangential relationship. She also stated:

. . . [I]f the purpose of Section 158 is to deter drunken driving, it is far too over and under-inclusive. It is over-inclusive because it stops teenagers from drinking even when they are not about to drive on interstate highways. It is under-inclusive because teenagers pose only a small part of the drunken driving problem in this Nation. (214-215)

#### **IV. SUMMARY OF CURRENT WISCONSIN LAW AND PENALTIES**

The “legal drinking age” in Wisconsin is defined as 21 years of age by Section 125.02 (8m), Wisconsin Statutes, and Section 125.02 (20m) defines an “underage person” as one “who has not attained the legal drinking age”. By law, underage persons and those who provide beverages to them are subject to possible penalties. One of the primary exceptions is for underage persons accompanied by a parent, a guardian, or a spouse who has attained the legal drinking age. There is also an exception for beverages used as part of a religious service.

Providers are subject to penalties of up to \$500 for a first violation in a 30-month period, increasing to up to \$10,000 and/or nine months’ imprisonment for a fourth or subsequent violation in 30 months. Allowing an underage person to enter a licensed establishment subjects a licensee to a possible forfeiture of up to \$500.

A licensee or other provider can refute the presumption that he or she knew or should have known that the person was underage if the underage person falsely represents his or her age, presents appropriate documentation, or appears to be of legal age, provided the beverage is served in good faith based on belief the purchaser was of legal drinking age. If the age is in question, licensees may keep a book to be signed by the purchasers or the respective parent, guardian or spouse to document the date of purchase and identification used.

For the potential underage purchaser, it is illegal to purchase or attempt to purchase alcoholic beverages with or without false identification. Generally, an unaccompanied underage person may not enter or remain on the premises where alcohol is sold, but there are some exceptions for employment and certain other circumstances. Penalties for underage purchasers include forfeitures, suspension of driving privileges, participation in a supervised work program, or a combination of penalties. (Possession or consumption is subject to a different set of penalties.) The suspension or revocation of driving privileges is a cross-sanction; it may be imposed even if the violation was not in connection with the operation of a motor vehicle. Local ordinances may establish penalties within the ranges specified in the state statutes.

The following table shows the penalties assigned to different offenses. Purchase-related violations include purchase, attempt to purchase, falsely representing one’s age for the purpose of receiving beverages, and entering a licensed establishment. A judge can stay and suspend or modify the penalties on the condition that the violator complete an alcohol and drug abuse assessment, treatment program, or education program. (Surcharges and court fees may be added to all the penalties.)

### Potential Penalties for Underage Violators

Number of Violations within 12 Months Preceding Current Violation	Purchase-related Violation ----- Forfeiture	Possession/ Consumption Violation ----- Forfeiture	Purchase and Possession/ Consumption Violations ----- Driving Privileges
		Underage adults (18-20)	
0	\$250-\$500	\$100-\$200	30-90 days' suspension
1	\$300-\$500	\$200-\$300	Maximum 1-year suspension
2	\$500-\$750	\$300-\$500	Maximum 2-year revocation
3 or more	\$750-\$1,000	\$500-\$1,000	Maximum 2-year revocation
		Minors (under 18)	
0	\$250-\$500	\$0-\$50	30-90 days' suspension
1	\$300-\$500	\$0-\$100	Maximum 1-year suspension
2 or more	\$500	\$0-\$500	Maximum 2-year revocation

Intentionally carrying (or providing) an illegal, altered, or inaccurate identification card is also a violation and subject to a forfeiture of \$100-\$500, driving suspension for 30-90 days, and/or participation in a supervised work program. Providing false identification cards to others for money or other consideration carries a penalty of up to \$10,000 and/or imprisonment for up to two years.

## V. ISSUES RELATED TO DRINKING BY YOUNGER ADULTS

### Drinking Among School-Aged Youth and Young Adults

Raising the drinking age to 21 across the country has not stopped younger people from drinking. Dr. Antonia Novello, surgeon general in the Bush Administration, cited a June 1991 report which stated that of 20.7 million junior high school and high school youth, 10.6 million (51%) reported having at least one drink within the past year, and 8.0 million (39%) had had at least one drink during the past week. Included in those 8 million weekly drinkers are about 454,000 (2%) who reported "binge drinking" (five or more drinks on a single occasion) on a weekly basis. While the binge drinkers would be classified as having an alcohol problem, opinions vary about those who drink infrequently or in moderation.

When it raised the drinking age to 21, the Wisconsin Legislature mandated annual studies through 1991 to gauge the impact of the change. The Department of Health and Social Services (DHSS) and the Department of Public Instruction (DPI) had previously conducted studies from 1984 through 1986. They found little change in the incidence of regular (i.e. at least monthly) drinking after the increase to 21. The reports cited estimates that approximately 20% of middle school students, over 50% of high school students and 80% of young adults ages 18-24 drink on a "current" basis (consumed a beverage within the past month). Among the 1991 Wisconsin high school seniors, 94% had consumed alcohol at some time and 61% were "current users". These figures compare to 90% and 57%, respectively, in a 1990 nationwide survey.

**Alcohol Use by Wisconsin Students — 1984-1991**

Usage	Year					
	1984	1985	1986	1987	1988	1991
Used at Some Time						
Grades 6-8	63.8%	65.6%	76.6%	42.2%	65.5%	64.7%
Grades 9-12	82.0	80.6	85.4	81.6	92.7	90.8
Drink Regularly (Monthly Use)						
Grades 6-8	N/A	12.1%	24.0%	24.8%	21.2%	21.3%
Grades 9-12	36.0	46.4	48.0	57.8	57.3	55.2

Source: Wisconsin Department of Health and Social Services, Office of Policy and Budget, *Evaluation of the Impact of Raising the Drinking Age to 21*, January 1992.

Obviously teens continue to have access to alcohol despite the 21-year-old age limit. Proponents of raising the age to 19 in the early 1980s argued that the increase would keep alcohol out of the schools, based on the assumption that younger teens relied on their 18-year-old classmates to obtain it for them. Opponents, however, argued that raising the drinking age would not solve the deeper problems of teenage drinkers who abuse alcohol. They also pointed out that most teenagers did not get their alcohol from 18-year-old classmates. A Wisconsin Association of School Councils survey in that period indicated that only 23% of high school drinkers obtained their alcoholic beverages from 18-year-olds. The experience of the past decade suggests that raising the age, first to 19 and then to 21, did not have the intended effect of keeping such beverages away from junior and senior high school students.

The annual Behavioral Risk Factor Survey, conducted by DHSS' Division of Health, suggests that the percentage of young adults ages 18-24, who are current drinkers has remained stable over the years despite the increased drinking age, but there had been a statistically significant decrease in "heavier" drinking (60 or more drinks per month) among young adults. Younger adults, on average, are more likely to be drinkers than the population as a whole, but the difference is not especially large. For light and moderate beverage consumption, 80% of younger adults drink, compared to about 70% of adults overall. For heavier consumption (an average of two or more drinks per day), the percentage has dropped since the mid-1980s and now falls within a few percentage points of 10% for each group.

There is a noticeable difference between drinkers of all ages and the younger adult drinkers when it comes to episodic (or "binge") drinking. About half of younger adults reported episodic drinking, as compared to just over one-quarter of all adults. This striking difference suggests two opposing arguments. From one perspective, the fact that younger drinkers are statistically more likely to go on a "binge" confirms the need to control behavior through a minimum drinking age. The other view is that there is a rite of passage aspect to underage

drinking that invites defiance of the minimum age law, and this persists regardless of the varying age limits which have been enacted.

### Incidence and Frequency of Beverage Consumption, 1984-1990

Usage	Year						
	1984	1985	1986	1987	1988	1989	1990
“Current” (at least one drink during the page month)							
18-24-year olds	73%	82%	81%	81%	82%	81%	81%
All ages	73	74	74	70	73	70	69
“Heavy” (60 drinks or more per month)							
18-24-year olds	13	18	24	13	15	6	13
All ages	10	9	11	10	9	6	6
“Episodic” (5 or more drinks on an occasion during the month)							
18-24-year olds	41	54	58	53	49	46	52
All ages	29	27	30	29	30	27	27

Source: Wisconsin Department of Health and Social Services, Division of Health, *Behavioral Risk Factor Survey*, 1991.

### Abstinence Versus Responsible Use

Although Wisconsin’s public schools teach students that they should abstain from consuming alcohol until they are of legal age, this abstinence message does not receive the full support of students’ parents. A 1993 DPI survey of parental attitudes about their children’s drinking habits showed most were not surprised that 95% of Wisconsin seniors were drinking, and nearly half of the parents would have approved rolling the drinking age back to 18 or 19.

As reported by the DPI: “Wisconsin parents are comfortable with alcohol. They are familiar with its effects and believe they use it responsibly. They view alcohol as part of their culture, and regard it as an expected and tolerable part of coming of age in a state where even the baseball team is named after a part of the alcohol industry.”

There were inconsistencies in parental attitudes. Of the parents surveyed, 52.3% said they support the 21-year-old drinking age (3.2% would even support prohibition for all), but 72.6% stated that they have permitted or would permit their children to drink before age 21. These responses conflict with the public schools’ advocating conformance with the drinking age law.

Most parents felt teenagers will experiment with alcohol no matter what parents and schools do, and they said they preferred to have their children drink safely at home with supervision, rather than endangering themselves by excessive use or intoxicated driving. While 64.5% of the parents stated that schools should teach abstinence, another 32.2% said schools

should teach responsible use. Even those parents who said schools should teach abstention specified a number of situations in which it would be acceptable for their children to drink.

**Parental Acceptance of Underage Drinking**

Statement	Percentage Accepting Statement by Group	
	All Responding Parents	Parents Who Favor Teaching Abstention in Schools
Drinking would be acceptable if...		
Parents are present	59%	52%
Special occasion or holiday occurs	61	52
Son/daughter is almost old enough	57	50
Parents know about it	52	43
An adult is present	48	41
Beer/wine (not liquor) is consumed	46	39
Drinker does not drive afterward	45	38
Only 1-2 drinks are consumed	43	35

Source: Wisconsin Department of Public Instruction, *A Tradition of Tolerance: What Wisconsin Parents Think About Teen Alcohol Use*, April 1993.

Parents also differ with schools in how they respond to various kinds of drug and alcohol use. School programs tend to treat alcohol and drug offenses the same, but parents would be more likely to punish a child severely for drug use than drinking. The rationale many parents gave for the difference is that alcohol-containing beverages are legal products, but drugs are not. They also felt alcohol can be used responsibly, which, they claim, is not the case with illicit drugs. They were concerned that drug use can lead to crime. For example, 89% would severely punish for smoking “crack” or “doing acid”, 82% for drinking and driving, and 62% for marijuana use, but only 22% would punish a 17- or 18-year-old for drinking and 36% would punish a 15- or 16-year-old for drinking. The majority would administer punishment for drinking without driving, though action ranged from discussion to moderate punishment.

Parents did express concern about underage drinking. About 80% considered it a “some-what” or “very” serious problem in their community. More than 80% agreed that there is strong support from schools and their communities for children to abstain from alcohol and drugs, and nearly 75% described alcohol abuse as a serious problem in the community. However, they displayed skepticism as to whether strict adherence to the drinking age was the most effective way to address the problem. They were more concerned that their children learn the habits of moderation and responsible use for life, rather than not to touch a drop of alcohol until the age of 21.

The questions lingering after the study are how to resolve the differences arising from a legal 21 age limit which school and law officials must enforce and parental ambivalence about teenage drinking and who has the responsibility for teaching moderation to young people.

## VI. PROSPECTS FOR LEGISLATIVE ACTION – 1995–96

### Previous Proposals

Although the drinking age in the 50 states and the District of Columbia is now 21, any state that chooses to reduce its drinking age would risk having 5% of its federal highway funding withheld for the first succeeding fiscal year and 10% thereafter. Fiscal estimates for 1993 Assembly Bill 259, which proposed to lower the drinking age to 19, calculated the amount Wisconsin would forfeit, based on the 10% sanction, would be approximately \$18.3 million in highway program funds and an additional \$2.1 million for two alcohol incentive grant programs for the federal 1995 fiscal year, which started October 1, 1994. Despite the fiscal consequences, Wisconsin legislators have introduced bills to restore an 18- or 19-year-old drinking age ever since the NMDA of 21 was enacted.

They have also considered extending certain privileges to minors and underage adults short of lowering the drinking age. Since 1989, three bills to permit underage persons to enter licensed restaurants and taverns passed the assembly but died in the senate. 1989 Senate Bill 472 to permit underage persons in billiard rooms passed in both houses in 1990, but was vetoed by Governor Tommy Thompson. 1989 Assembly Bill 890 would have granted certain high school graduates an exemption from the drinking age if they passed an examination on responsible consumption and paid a fee. The bill was intended to convince the federal government to grant the state a waiver from the NMDA because of its educational component and because Wisconsin's absolute sobriety law would mean a minimal risk of increased drunk driving. If the federal government did not grant the waiver, the certification fees were expected to offset a part of the loss in highway funds. In 1989 the assembly adopted Assembly Joint Resolution 62 memorializing the U.S. Congress and the President to repeal the highway crossover sanctions under the NMDA. 1989 AJR 131 would have submitted an advisory referendum to Wisconsin voters on the drinking age but it was not adopted.

The bill that received the most attention during this period was 1993 AB 259 to restore 19 as the drinking age. The Assembly Excise and Fees Committee endorsed the bill by a 5–3 vote, but Governor Thompson warned he would veto it because the state could not afford to lose \$21 million in federal highway funding. The Joint Committee on Finance recommended passage, 9–7, with an amendment that would condition the age change on either a reduction in the federal minimum or repeal of the NMDA penalty provisions. Another amendment would have permitted sale only for on-premise consumption to underage 19-20-year-old Wisconsin residents or nonresident UW System students, but the Legislative Fiscal Bureau noted that even the limited on-premise provision might expose Wisconsin to the risk of federal sanctions. AB 259 did not reach the assembly floor before the end of the final floor period.

### **Current Proposals**

U.S. Representative Scott Klug announced in January 1995 that he would introduce a bill to repeal federal highway funding regulations that penalize states that do not implement laws relating to motorcycle helmets, seat belts, speed limits, and the drinking age. According to Representative Klug, states should decide those issues on their own merits, rather than be subjected to federal "financial blackmail".

No bills relating to the drinking age have been introduced as of January 27, 1995, in the 1995 Wisconsin Legislature, although news reports and past experience suggest that the issue will be revisited.