

State Laws Mandating or Promoting Training Programs for Alcohol Servers and Establishment Managers: An Assessment of Statutory and Administrative Procedures

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INTRODUCTION

ALCOHOL-RELATED violence and trauma are serious public health problems in the United States. Alcohol is a substantial contributing factor in the high rates of motor vehicle crashes, drownings, other unintentional injuries, suicides, homicides, assaults, rape and other sexual violence (1,2).

During the last two decades, public health professionals working on alcohol problems have increasingly shifted their focus from programs addressing individual pathologies to environmental influences on individual behavior (3,4). As part of this trend, prevention specialists have examined the role of commercial alcohol establishments and their employees, both servers and managers, in preventing sales to minors and intoxicated persons (5,6).

Research supports this new focus. Studies have found that a substantial portion of drinking drivers start their intoxicated journey from bars and restaurants, i.e., on-sale establishments (7,8). Both on-sale and off-sale establishments, e.g., grocery and liquor stores, have high rates of sales to minors and obviously intoxicated patrons, despite laws prohibiting such sales (9-13). Serving and selling practices in commercial establishments also contribute to a community's alcohol environment, setting norms for what is appropriate behavior for both drinkers and noncommercial or "social" providers of alcohol (5).

Responsible Beverage Service (RBS) programs train alcohol servers to identify and refuse service to minors and intoxicated persons, and train establishment managers to implement policies and procedures to support servers' intervention techniques (5,6). The retail alcohol industry viewed these prevention programs with skepticism when they were first introduced in the early 1980s. However, by the year 2000, the industry had tempered its early opposition and supported their implementation (14). The general public is also very supportive of training policies. A recent nationally representative survey of adults age 18 and over indicates that 89% of the population is in favor of policies mandating server training, and 88% are in favor of manager training to increase responsible service of alcohol (15).

Evaluations of RBS programs have had mixed findings. Several studies show effectiveness in reducing the number of intoxicated patrons leaving an establishment (16–19). Holder and Wagenaar (20) found a substantial reduction in motor vehicle crash fatality rates following the introduction of mandatory RBS training in Oregon. Grube (11), on the other hand, found that off-sale RBS training had little effect on sales to minors beyond the effects of a concurrent enforcement intervention. Several studies show improvements in server knowledge and beliefs, but inconsistent results for changes in behavior, particularly in cutting off service to intoxicated patrons (21–23).

These inconsistent findings may reflect in part the varying quality of the RBS programs, both in terms of content and implementation. Toomey and associates (6) assessed 22 local and national RBS programs and found wide variability in 12 dimensions of quality, with generally low ratings for program content and communication methods. The two highest-rated programs targeted only servers, with no training for managers on policy development and implementation in their establishments. Even high quality programs will have little effect if they are not implemented and administered effectively (21).

Although research findings on RBS training programs are mixed and few high-quality training programs exist, many states have enacted server training laws in an effort to reduce alcohol-related problems (6). We conducted a qualitative analysis of state RBS laws to determine how effective the laws are in mandating or encouraging high-quality RBS programs that have the potential for reducing alcohol-related problems. Results of this study may inform future legislative activity.

METHODS

Data Collection

We identified 23 states that had enacted some form of RBS legislation prior to January, 2007 (Table 1). We identified pertinent legislation by: (1) collecting primary source materials through StateNet, an electronic database of state legislative activity, using key-word searching methods; and (2) conducting similar searches on Westlaw, another electronic database with strong search capabilities of primary and secondary legal sources. We used the second data source to insure that our initial search was complete and accurate. States that may sponsor RBS programs without authorizing statutes, e.g., through Alcoholic Beverage Control (ABC) agency administrative action alone, are not included in our sample.

We then collected and reviewed data for each of the 23 states from two sources: (1) RBS statutes and associated regulatory provisions, and (2) telephone surveys of ABC staff. RBS statutes are the laws enacted by state legislatures through the state's legislative process. The associated regulations are authorized by the state RBS legislation and promulgated through an administrative process usually conducted by the ABC agency. We located the regulations by searching Westlaw. Since not all state regulations are included on Westlaw, we also searched the ABC agency websites, the Commerce Clearing House, Alcohol Law Reporter, and requested copies during the telephone interviews.

For the ABC survey, we asked to talk to the staff person in charge of administering the state's RBS program (participation rate = 100%). In semi-structured interviews, staff were asked about the number of training programs certified in their state; who was required to attend the training; required length of the training; whether and how the training programs, licensees, and trainees were monitored for compliance with server training laws and regulations; whether certification of training was required at the time of license renewal; types of penalties for noncompliance with laws and regulations; and what benefits licensees may receive for participating in a training program. Interview data were also used to clarify ambiguous language in the statutes and regulations.

Components of Server Training Legislation

We classified the 23 state RBS laws as either mandatory or incentive. Mandatory laws require that at least some employees of alcohol retail establishments complete a server training program. Incentive-based states, on the other hand, do not mandate RBS training but offer a benefit to those licensees who train their staff. Some incentive states mandate training if a licensee violates the serving laws, but this fact does not change our classification.

There are 11 incentive and 12 mandatory states. Within the mandatory states, there is wide variation in who is required to attend a training program (Table 1). Only two states mandate the participation of owners, managers and servers. The remaining 10 states fall into three categories: (1) four states require all servers and managers to be trained but exempt the owner of the establishment from the training requirements; (2) four states exhibit significant gaps in who must be trained, three exempt all off-sale personnel and Maryland exempts all servers, and (3) two states, Wisconsin and New Jersey, only mandate training in new businesses, which account for a tiny percentage of all establishments in the state. New Jersey also exempts servers and requires only owners of establishments or designated managers to attend training. New Jersey and Wisconsin are labeled mandatory, but their programs require so few individuals to participate in training that there may be more participation in many incentive states. One state, Oregon, has an incentive "advanced" RBS program in addition to its mandatory program. We did not include the advanced program in our analysis.

Based on theory and previous research studies, we identified five components for RBS laws: program requirements, administrative requirements, enforcement, penalties, and benefits. We then established coding criteria to rate each component (except benefits) (Table 2). Higher scores indicate that a given component is more comprehensive.

Minimum Program Requirements

Based on a review of the research literature, we identified five dimensions of program requirements that likely influence the effectiveness of RBS training programs (5,6).

TABLE 1

Summary of Alcohol Retail Sectors Covered Under State RBS Laws.

Mandatory Responsible Beverage Server Training Program States

State	Establishment Type		Licensee Type		Required Attendees			Legal Reference-Statutes ¹
	On-sale	Off-sale	New	Existing	Licensee	Manager	Servers	
<i>Fully Mandated Training Programs</i>								
DE	✓	✓	✓	✓	✓	✓	✓	4 Code § 1201 et seq.
VT	✓	✓	✓	✓	✓	✓	✓	7 Stat. Ann. § 239
<i>Substantially Mandated Training Programs</i>								
AK	✓	✓	✓	✓		✓	✓	Statute § 04.21.025
LA	✓	✓	✓	✓		✓	✓	Rev. Stat. Ann. § 26.932
NM	✓	✓	✓	✓		✓	✓	Stat. Ann. § 60-6D-1 et seq.
OR	✓	✓	✓	✓		✓	✓	Rev. Stat. § 471.542; 547; 549
<i>Partially Mandated Training Programs</i>								
MD	✓	✓	✓	✓	✓	✓		Alc. Bev. Code Ann. § 13-101
TN	✓		✓	✓	✓	✓	✓	Code Ann. § 57-3-701 et seq.
UT	✓		✓	✓	✓	✓	✓	Stat. Ann. § 62A-8-103.5
WA	✓		✓	✓	✓	✓	✓	Rev. Code Ann. § 66.20.320
<i>Minimally Mandated Training Programs</i>								
WI	✓	✓	✓		✓	✓	✓	Stat. Ann. § 125.04 et seq.
NJ		✓	✓		✓ ²	✓		Stat. Ann. § 33-1-72.40 et seq.

Incentive-based Responsible Beverage Server Training Program States

State	Liability Defense	Mitigate Fines	Discount Insurance	Protect License	Legal Reference-Statutes ¹
AL					
AZ		✓	✓	✓	Code § 28-10-1 et seq.
AR		✓			Rev. Stat. Ann. § 4-112
FL		✓			Code Ann. § 3-4-801 et seq.
IL		✓		✓	Stat. Ann. § 561.705
IN		✓	✓		Rev. Stat. 233 § 5-6-27
ME	✓				Stat. 7.1-3-18-9
MI					28-A Rev. Stat. § 2519
NH	✓		✓		Comp Laws Annot § 436.19
RI	✓	✓			Rev. Stat. Ann. § 507-F: 6
TX		✓			Gen. Laws § 3-14-12
				✓	Alc. Bev. Code Ann. § 106.11

¹The following state regulations also apply to Responsible Beverage Server Training:

AL Admin. Code 20-X-12.01

AK 15 Admin. Code 104.405 et seq.

AZ Admin Code R-19-1-257

AR Reg. 6.5

DE Regs. ABC Rules 73, 73.2

IL 77 Admin. Code 5550.101

IN 905 Admin. Code 1-12.5-1 et seq.

LA Admin. Code 55 § 51501

NH Admin. Code, Liq. Ch. 206.02

NJ Admin. Code 1312-22.1 et seq.

NM 15 Admin. Code 11.5.1

OR Admin. Rules 845-016-0015

TN ABC Rules, Ch. 0100-8

TX Admin. Code 16 § 50.11

UT Admin. Code R344-5

VT Rev. Regs. Alc. Liq. Salts. Educ. Reg. 1-7

WA Admin. Code 314-12-0100

²Licensee required to attend RBST if actively engaged in operation or control of business.

TABLE 2

Coding schemata for four components of state RBS policies

<i>Requirements and Elements Included</i>	1	2	3 ^a	3b	4	5
<i>Program Requirements</i>						
Manager training focus		No	Yes			
Management policy development		No	Yes	No	Yes	Yes
Behavior change methods	No minimum requirements	Inadequate	Inadequate	No	Yes	Yes
Basic knowledge of legal, social and physiological issues				Yes	Yes	Yes
Minimum length specified as at least 4 hours of face-to-face training		Inadequate	Inadequate	Yes	Yes	Yes
		No	No	No	No	Yes
<i>Administrative Requirements—Mandatory Policies</i>						
Mandatory certification of trainers/programs		1 of 3 "Yes"	2 of 3 "Yes"			
Mandatory certification of specified trainees		Yes	Yes		Yes	
Mandatory recertification of trainers/programs	No requirements	Yes	Yes	1 Certification	Yes	
Mandatory recertification of specified trainees		No	No	1 Recertification	Yes	N/A
Proof of training required at license renewal		No	No	Yes	Yes	
<i>Administrative Requirements—Incentive Policies</i>						
Mandatory certification of trainers/programs		Yes	Yes		Yes	
Mandatory recertification of trainers/programs	No requirements	No	Yes		Yes	
Mandatory certification of licensees		N/A	No	N/A	Yes	N/A
Mandatory recertification of licensees		N/A	No		Yes	
<i>Enforcement—Mandatory Policies</i>						
Active surveillance of training programs (random checks)		1 of 2 "Yes"	1 of 2 "Yes"			
Active surveillance of licensees (random checks)	No surveillance	No	Yes		Yes	
Passive surveillance of training programs (largely from complaints)		No	Yes	N/A	Yes	N/A
Passive surveillance of licensees (largely from complaints)		Yes	No		No	
<i>Enforcement—Incentive Policies</i>						
Active surveillance of training programs (random checks)		Yes	No		No	
Passive surveillance of training programs (largely from complaints)	No surveillance	No	Yes	N/A	N/A	N/A
		Yes	Yes			
<i>Penalties—Mandatory Policies Only</i>						
Graduated admin penalties—licensees		1 of 2 "Yes"				
Graduated admin penalties—server permits	None	Yes	Yes		Yes	
Graduated admin penalties—training programs/ABC-based training		No	No	N/A	Yes	N/A
		Yes	Yes		Yes	

Note: For some components, a score of "2" or "3" could be assigned for different combinations of the dimensions.

- (1) *Review all basic information relevant to servers.* This includes attention to physiological effects of alcohol and social problems associated with alcohol use. Many RBS programs focus only on prevention of traffic crashes, ignoring the wide array of other social problems that may result from over-consumption of alcohol, i.e., servers should refuse alcohol service even if the intoxicated patron is not driving. Coverage of legal requirements related to alcohol service is also important. Since states exercise primary authority over retail alcohol sales (pursuant to the 21st Amendment of the U.S. Constitution), training programs need to review the laws of the state where the training takes place.
- (2) *Include behavioral change/communication techniques.* Both managers and servers need to learn specific skills, through role-playing or other skill-building techniques, for refusing illegal sales to underage and intoxicated patrons(6). Behavior-change theories and studies clearly show that simply providing information does not promote behavior change or increase skill levels (24-26). Programs that rely exclusively on videotape presentations or present information on these skills without requiring the skill-building techniques themselves do not satisfy our criteria.
- (3) *Target both managers and servers.* Many programs focus exclusively on servers and serving practices, without including managers as participants; yet managers must supervise servers and need to be familiar with servers' responsibilities and skills (5,6). Programs that require only those managers who serve alcohol to obtain the training do not fulfill our criteria.
- (4) *Include management policy development.* Managers are also responsible for implementing effective establishment policies that support responsible server practices. Servers may not follow the server training techniques and protocols learned during training if they work in an establishment that does not expect or support the responsible server practices (5,6, 18).
- (5) *Last a minimum length of four hours.* Adequate coverage of relevant information and in-depth use of skill-building tech-

niques requires sufficient time. The most effective RBS programs last at least four hours (5,17,27).

After determining the existence of these dimensions in each state's legislation, we established a five-point coding scale (for incentive states, we focus on the minimum program requirements required to be eligible for the legislated benefit). Higher scores were assigned to more comprehensive legislation that included high-quality server training (both components 1 and 2) or high-quality manager training (both components 3 and 4; see Table 2 for details).

Administrative Requirements

The Administrative program component includes the state's procedures for certifying or licensing program participants. Administrative requirements serve three functions critical to implementation and quality control: (1) provide a means to evaluate training programs, insuring that the training meets the standards established above; (2) track which licensees and servers have completed the training; and (3) establish a framework for imposing penalties on violators, by suspending or revoking the certification or license. We identified three key dimensions of the administrative component of mandated RBS laws:

- (1) *Establish criteria and procedures for certifying or licensing training programs and/or trainers, and require re-certification at regular intervals.* Program administrators need a mechanism for insuring that privately operated training programs adhere to the mandated training program requirements. Certainty of detection is the most effective deterrent to prevent non-compliance with program requirements (18,29). Periodic re-certification is needed to assure continued compliance over time. Discretionary authority to re-certify programs is not sufficient to meet this criterion because it is unlikely to create a general deterrent effect across all trainers over time. States where government employees conduct all trainings are assumed to have established a certification and re-certification process through their employee supervision policies.
- (2) *Establish a procedure for certifying or licensing the trainees and require re-certification at regular intervals.* Program administrators also require a process for insuring that all employ-

ees who are required to obtain training have successfully completed the mandated RBS program. It is insufficient to certify some, but not all, employees required to be trained.

- (3) *Require licensees to submit documentation on a regular basis (e.g., at the time of license renewal) showing that their staff have received the required training.* Similarly, administrators need a mechanism for determining whether licensees are obeying the legal requirements.

We created a four-point administrative scale based on these dimensions (Table 2). As Table 2 indicates, a state can be assigned a "3" through two different requirements for the administrative dimension.

We created a distinct coding structure for incentive states. They need to certify and recertify training programs using the same criteria for mandated states discussed above, but monitoring server and licensee participation raises distinct implementation issues since they are not *required* to participate in the training program. To receive the statutory benefit, licensees must establish that all relevant staff have obtained the training. Some states have an active program, where licensees first train their staff and then seek "responsible vendor" (or some similar term) status, or servers receive a certificate that is registered with the state. If the licensee commits a violation, the state simply consults the licensee's files to determine whether it is entitled to the mitigated penalty. Other states have a passive program, where the state does not maintain any records and the licensees must establish their entitlement to the benefit by filing proof that their staff was trained at the time of the violation. In the absence of legislation addressing the monitoring of licensees and servers, we assumed that the state is relying on a passive program. An active program is preferable, since it increases the status of the formal training, encourages licensees to train their staff, and simplifies enforcement. Our four-point scale for incentive states gives added weight to certification and re-certification of trainers (Table 2).

We assessed whether the state RBS laws, in both mandatory and incentive states, created an outside advisory board to assist the relevant state agency in developing program standards and procedures, examining in particular the role of the alcohol industry in the makeup of such boards. These data did not affect the coding of this compo-

ment and are reported separately. We also did not assess renewal periods and the grace period before required training.

Enforcement Programs

Research shows that compliance with program requirements improves with deterrence—when those subject to mandated procedures believe that violations will be detected and punished (28,29). Effective deterrence requires a perceived certainty that a penalty will be imposed and that its imposition will be relatively swift. It is therefore dependent on active, visible enforcement.

As with administrative procedures, enforcement varies between mandated and incentive states. In mandated RBS programs, enforcement needs to target both training programs and licensees since both are subject to mandated procedures (servers are a third, but less important focus, since licensees have an incentive to enforce server procedures and punish violations in their role as employers). The essential element in establishing this accountability is active surveillance. Part of this surveillance involves administrative certification and re-certification. Perceived certainty of facing a penalty for non-compliance is increased if enforcement staff conduct regular compliance checks (28,29). A passive surveillance program is one that relies solely on external complaints to identify potential violations. An active surveillance program increases compliance through increased certainty of detection among all establishments if enforcement staff conduct spot checks of randomly selected training sessions and licensees. We created a four-point scale to assess mandatory programs, with higher scores given to states with active enforcement targeting both training programs and licensees (Table 2).

By definition, an incentive program is voluntary; thus no enforcement mechanism is necessary to monitor licensees or servers. However, program administrators in incentive states need to monitor certified training programs to insure continued compliance with program standards. We created a four-point enforcement scale, reflecting the existence of an active, passive, or no enforcement program targeting training programs in the state.

In either incentive or mandatory states, the lack of enforcement staff assigned specifically to RBS program enforcement results in a classification of “no enforcement” even if a license or certification

can be revoked if brought to the state's attention. Our data collection included information on the number of enforcement officers assigned to enforcing the RBS program requirements and the number of violations detected. An active enforcement program cannot create an effective deterrent if there is inadequate staff. Since assessing adequacy of enforcement staff is based on anecdotal reporting, the adequacy of number of enforcement staff (when states report having at least one enforcement staff person) is not included in our coding structure.

Penalty Requirement

Enforcement will create a deterrent effect only if violations result in a penalty (30). The penalty needs to provide a significant hardship, particularly for repeat violations, although its severity is less important than having it imposed swiftly and with certainty, the key element of deterrence (28, 29).

In general, administrative penalties are preferable to criminal sanctions because they are easier to implement (28, 29, 31). The state agency that issues the license or certificate (e.g., ABC) is responsible for administrative sanctions, which restrict the offender's ability to conduct business. Sanctions include fines, license suspensions, and license revocations; they are imposed through administrative procedures that do not require full judicial oversight, and are relatively streamlined. While RBS programs are a specific part of the ABC agency's mandate, they are of only tangential interest to criminal justice officials. Limited resources force prosecutors to be selective in choosing which crimes to prosecute, and RBS program violations are likely to receive a very low priority.

We identified two key dimensions of the penalty component for mandatory RBS law violations.

- (1) *Graduated administrative penalties rather than criminal penalties.* Administrative penalties should increase in severity for repeat violations (32).
- (2) *Penalties targeting training programs, licensees, and, to a lesser extent, servers.* Training programs need to be targeted, to insure program quality, and licensees should be targeted to be sure that employees are being trained. As discussed above,

licensees have an incentive to insure that their staff are trained and can impose sanctions on staff in their role as employers. States should therefore place a lower priority on imposing penalties on servers.

Our four-point scale for mandatory states provides added weight for penalty structures that focus on training programs and licensees (Table 2). In states that have only state-operated RBS programs, we assume the presence of internal disciplinary policies assures a system of graduated administrative penalties. In addition, for purposes of this variable, a graduated administrative penalty structure does not include the following: merely removing a training program's right to conduct future training programs until any deficiency is corrected, or denying an initial license or renewal to a licensee who is not in compliance with RBS program requirements.

As with the enforcement component, penalties in incentive states apply only to training program violations. All incentive states that certify training programs use certification revocation as the penalty for violations; this uniformity obviated the need for a separate coding structure for these states.

Benefits

By definition, an incentive program is voluntary; therefore no penalty requirements are necessary for licensees or servers who fail to participate. Incentive states instead offer licensees benefits for voluntary participation in the program. We examined these benefits and created three descriptive categories. We did not develop a scale for the different dimensions of the benefits component because of the qualitative differences in benefits offered across states.

Mandatory RBS programs do not provide benefits to those who comply, since compliance is required. They may, however, provide benefits to licensees by substituting mandatory training for some previous requirement or sanction. For example, a state might reduce the penalty for illegal sales to minors at the same time that it mandates RBS training. These political tradeoffs usually do not occur within a single statute. We report benefits found within the RBS statutes but did not complete an investigation of changes occurring within other statutes.

Coding Procedures

We used a multi-stage coding process. Three research staff, including two lawyers, first individually reviewed the statutes, regulations, and survey results for each of the 23 states and assigned initial values. These researchers then had in-depth discussions about each coding decision. Through this process, missing information was identified and definitions and dimensional categories were further refined. When all information had been obtained and categories finalized, a fourth member of the research staff who had expertise in server training and policy research reviewed all relevant information for each state and assigned values for each component.

Weighted Kappa statistics were calculated to assess level of agreement between values assigned by the fourth coder and consensus values from the first three coders. The Kappa coefficient for all categories across mandatory and incentive states was 0.82. The Kappa coefficients for all categories within mandatory and incentive states were 0.77 and 0.86, respectively. Kappa coefficients across the 23 states for each of the four components that had values assigned to component dimensions (i.e., program, administration, enforcement, penalties) ranged from 0.64 to 1.00. The lowest level of agreement was for the program component, which was the most complex in terms of coding decisions. Inconsistencies were reviewed and discussed by the four coders until final consensus values were determined.

FINDINGS

Program Requirements

Program quality is generally low, even when judged by our minimal program requirements. Only two states were assigned the top rating, with minimum standards for both server and manager training and a minimum four-hour time frame (one state—Alabama—had the minimum standards but not the minimum time frame; Table 3). Nine states have minimum training standards for either managers or servers but not both. Almost half (11 states) either did not meet any of the minimum standards or had no standards at all. The 11 incentive states have lower scores than mandatory states. None were assigned a top rating, two had no standards and three had inadequate standards for both server and manager training.

TABLE 3

Rating of States' Responsible Beverage Server Programs by Components

Mandatory Responsible Beverage Server Training Programs

State	Program (1-5)	Administrative (1-4)	Enforcement (1-4)	Penalties (1-4)
AK	2	3	3	1
DE	3	3	4	4
IA	3	2	4	4
MD	2	3	1	3
NJ	2	2	4	3
NM	5	4	3	4
OR	5	3	4	3
TN	3	3	4	3
UT	2	3	3	3
VT	2	2	3	1
WA	2	3	4	4
WI	3	1	1	1

Incentive-Based Responsible Beverage Server Training Programs

State	Program (1-5)	Administrative (1-4)	Enforcement (1-3)
AL	4	4	3
AZ	3	2	2
AR	3	2	1
FL	3	1	1
IN	2	2	1
IL	2	3	1
ME	3	3	3
MI	2	2	2
NH	1	1	1
RI	1	1	1
TX	3	4	3

Administration

States, particularly those with mandatory programs, had generally higher scores for Administration than for other categories, although only three states attained a top score of 4 (Table 3). Most mandatory states had a score of 3 or 4 (eight out of 12 states). Administrative

scores for the 11 incentive states showed more variability and generally had lower scores, with two receiving a 4, but seven were assigned scores of either 1 or 2. Lower scoring states do not re-certify training programs (and three of the seven do not even certify the programs at initiation), which means they do not have a process for insuring that training programs are maintaining minimum program standards over time.

Four state statutes established advisory boards (Louisiana, Maine, New Mexico, and Oregon) with extensive responsibilities for assisting their state's ABC agencies in establishing program standards and administration. All four provided specific criteria for selecting board members. One of the four—Louisiana—mandated that a majority of the board members represent alcohol industry organizations. The other three statutes required a majority of the board to represent public health and safety representatives.

Enforcement

Ten of the 12 mandatory states maintain some degree of an active enforcement program. Six states target both licensees and training programs, and four target one but not the other. The 11 incentive states have generally low scores despite having a less demanding enforcement agenda. Seven have no enforcement program whatsoever, and only three have active surveillance of training programs.

These findings fail to provide a complete description of the states' enforcement efforts. Interviews with program administrators suggest that violations by training programs, licensees, and servers are likely to go undetected. Louisiana reported the most vigorous enforcement effort targeting training programs, providing a benchmark for comparing efforts in other states. In the first ten months of its mandated program, the Louisiana ABC agency conducted regular compliance checks of the 75 training providers and detected 25 violations. Several administrators in other states indicated that their agency did not collect any data on violations and had insufficient staff to detect them.

Penalties

Eight of the 12 mandatory states require, at a minimum, administrative sanctions targeting both training programs and licensees who violate the law's provisions. Four states had very comprehensive penalty structures.

Benefits

Incentive states provide participating licensees at least one of four types of benefits (Table 2). Three states—Maine, New Hampshire and Rhode Island—offer licensees an affirmative defense to civil (dram shop) liability. Licensees who can establish that they adhered to RBS practices at the time of the illegal sale are protected from lawsuits brought by third parties injured as a result of the sale (33,34). Three states—Alabama, Florida, and Texas—offer blanket immunity from civil (dram shop) liability or blanket protection from license revocation and suspension for violating sales to minors laws. Unlike the affirmative defense benefit, licensees can claim these benefits by establishing that their employees completed RBS training without regard to its implementation at the time of the illegal sale. Five states provide for potential reductions in licensee and server fines for illegal sales to minors and intoxicated persons. The statutes give the ABC agency discretion in administering the benefit, thus permitting the imposition of more severe sanctions for repeat offenders. Finally, two states provide discounts on dram shop liability insurance rates for establishments participating in the voluntary program.

We found one mandatory state that provided a benefit to licensees within the RBS statute. Louisiana preempted local governments from mandating additional RBS program requirements, including the imposition of local fees. According to one informant, the state statute effectively abrogated a proposal in New Orleans to develop a more comprehensive local program (35).

DISCUSSION

Our findings show generally weak state RBS legislation. There are significant variations across states, and many have strong provisions in at least one or two components. However, most states also have at least one weak component. Mandatory states rated generally higher than incentive states. New Mexico and Oregon, two mandatory states, have the best legislation. These were the only states assigned a top rating for program requirements, combined with ratings at or near the top in other categories. However, both states have weak enforcement, which undermines the legislation: New Mexico has only passive surveillance of training programs and Oregon lacks adequate

enforcement staff. The ten other mandatory states have serious flaws in their legislation, notably in the program requirements category, with six of these ten further weakening their programs by failing to mandate training for a substantial number of servers and managers.

Incentive states have much lower scores. Texas, Alabama, and Maine have the best ratings in this group, although none have adequate program requirements and the benefits they afford to licensees result in a probable net loss to public health and safety. Other incentive states have seriously flawed statutes, with at least one and sometimes multiple low ratings, even though the rating criteria for incentive states are less comprehensive than those applied to mandatory states.

The lower scores for incentive states are of particular concern given the benefits offered in many of these states. Texas protects participating licensees from dram shop liability lawsuits, and Alabama and Florida protect them from revocation and suspension of licenses for sales to minors, thereby removing prevention strategies that have been proven effective in reducing alcohol-related motor vehicle crashes and sales to minors (11, 20, 36). The tradeoff may be a net loss to public health even in Alabama and Texas, which have relatively high-rated legislation, since the program requirements in these states are flawed and may result in only limited public health gains. Potential damage to public health is most likely in Florida, which has weak program requirements and no quality assurance mechanisms. States that offer discretionary, mitigated penalties and dram shop liability insurance discounts are less risky in terms of public health goals, but they still offer reduced penalties for participation in programs that have serious flaws and questionable benefits.

By contrast, the dram shop liability defense benefit enhances public health goals by requiring not only training but also implementation. From a public health standpoint, this benefit, combined with strong program requirements and quality assurance standards, offers the best legislative structure and can be applied to both mandatory and incentive-based programs (33,34). Only three states—New Hampshire, Rhode Island, and Maine—offer this benefit; however, all three do so in the context of weak program standards.

Louisiana provides a unique benefit to licensees that provides some insight into the process by which these statutes are enacted. There, the alcohol industry supported mandatory RBS legislation only after

public health proponents had enacted mandatory local RBS programs in at least two Louisiana cities and had proposed similar legislation in New Orleans. The alcohol industry opposed these local measures, which gave a substantial role to public health organizations. It therefore supported and helped draft the statewide legislation, which pre-empted, or nullified, the New Orleans proposal, and created an advisory board dominated by industry representatives with extensive responsibilities for designing the program (35).

The Louisiana statutory provisions are thus the result of a political negotiation between public health and industry representatives, with the industry seeking relatively weak standards, relief from stringent program requirements, and control over program design. The same negotiating process probably occurred in the other jurisdictions studied here (for discussion of this negotiating process, see 15). Our findings point to a need for caution among negotiators for public health. In many cases, the legislation may not benefit, and may undermine, public health interests by establishing weak programs, inadequate quality control standards, and benefits for the alcohol industry that remove effective prevention strategies from consideration or implementation.

Our findings that mandatory states have generally stronger RBS legislation receives some support from preliminary findings of a five-year study of RBS programs. The study found that New Mexico and Oregon, states with the strongest RBS legislation, had significantly better public health indicators than two incentive and two free-market states (16). Although the results are positive, the researchers also state that the number of server interventions with intoxicated patrons is disappointingly low across all sites. The weaknesses we found in the New Mexico and Oregon enforcement component may significantly undermine the overall program effectiveness.

Although we did not assess all relevant factors that may affect the effectiveness of RBS state laws (e.g., mandated minimum length of time between hiring and training), our analysis does provide preliminary guidance for public health professionals and others involved in drafting RBS legislation. In general, public health is served by instituting fully mandated programs with attention to five components: (1) program content that covers a wide range of relevant information, includes policy development for management, uses behavioral-change techniques, targets both management and servers, and lasts at least

four hours; (2) administration which requires certification and recertification of training programs and trainees and submission of lists of training attendees at the time of license renewal; (3) administrative penalties targeting training programs, establishment owners, and servers; (4) benefits that encourage participation in the program but that do not eliminate liability for irresponsible alcohol service; and (5) enforcement consisting of active monitoring of both training programs and trainee compliance and adequate enforcement staff. Special attention should be placed on program requirements, the backbone of any RBS program. We have described relatively strong legislative provisions within each component that can serve as models in future legislative and implementation efforts.

As indicated by Dresser (16), evaluation of current RBS legislation may find weak or minimal effects. These findings are not surprising given that many current RBS laws do not require scientifically developed behavior-change methods and are not well implemented and enforced. This study shows the diversity of RBS components and implementation across states. Future research should take this diversity into account in policy and programmatic evaluations of RBS training.

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ABSTRACT

We conducted a qualitative analysis of 23 state Responsible Beverage Service (RBS) laws to determine how effective the laws are in mandating or encouraging high-quality RBS programs. As of January, 2001, 12 states at least partially mandate RBS training for alcohol establishments and 11 states offer incentives to encourage participation in RBS training. We collected information regarding state RBS laws from two sources: (1) RBS statutes and associated regulatory provisions, and (2) telephone surveys of Alcoholic Beverage Control agency staff. We identified and evaluated five components of RBS laws: program requirements, administrative requirements, enforcement provisions, penalties for lack of compliance with law, and benefits for participation in training programs. Comprehensiveness of RBS laws varied by state; however, RBS legislation was weak across all states overall. While some states were strong in one or two of the RBS components, almost all states were weak in at least one component.