

**MODEL STATUTORY LANGUAGE
RESTRICTING ALCOHOL ADVERTISING AND ALCOHOL
SPONSORSHIP IN STATE PUBLICATIONS AND ON
PROPERTY OWNED, LEASED, OR OPERATED BY THE
STATE**

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Prepared for:
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July 2004

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INTRODUCTION

As the exposure of underage youth to alcohol marketing continues to occur at high levels, states and communities are showing increasing interest in measures that may be taken to reduce that exposure. Taking such measures can raise complex legal questions. The following statutory provisions offer a constitutionally-defensible model of how states and communities may restrict one area of alcohol marketing, alcohol advertising and sponsorship on property owned, leased, or operated by a state, in order to reduce youth exposure. Individual states and communities will of course need to modify the model statutory language to fit their specific needs and circumstances.

The model statutory provisions address the four specific types of state property:

- State publications
- State higher education campuses and properties of other state educational institutions
- State-owned buildings leased to private parties
- State public entertainment facilities such as sports arenas and convention centers, state buildings, and state parks and other state lands, whether owned by the state or leased from private parties by the state

The model statutory provisions rely substantially upon the premise that when acting as a “proprietor” or “market participant,” a state may exercise broad discretion, in the operation of its own commercial interests, to send through advertising displayed on its own property a message of its own choosing, i.e., that it declines to accept, or chooses to limit, alcohol advertising or sponsorship in connection with state publications and these other state properties. The U.S. Supreme Court and other federal and state courts have held that state proprietary restrictions on commercial speech are not subject to strict review under the First Amendment of the U.S. Constitution.

The model statutory language includes a set of legislative findings to support the state’s interest in promoting the welfare and temperance of minors and in projecting a wholesome, family-oriented state image that rejects alcohol consumption by underage youth. These findings are critical. They establish and support the state’s interest in regulating alcohol advertising and sponsorship, demonstrate that the state is acting in its proprietary capacity, and show that the regulations are designed to further the state’s purposes. Reference to them provides an important element of any defense to litigation challenging the constitutionality of the provisions. Depending on local state law, however, it is not necessary to include these findings in the final codified statute. Instead, they should make their way into the bill jacket or, in other words, be made part of the enacted bill’s legislative history.

Provisions for administering or enforcing these restrictions are not included. In most cases, these topics are covered in existing state laws that need to be referenced and incorporated into any final statute. A commentary is provided for the provisions related to state educational institutions and sponsorship of events on state lands to address the legislative options provided in the statutory text.

A memorandum entitled: “Constitutionally Defensible Restrictions on Alcohol Advertising and Alcohol Sponsorship in State Publications and on State-Owned or State-Leased Lands” provides a detailed legal analysis of the legal issues related to the model provisions. This memorandum should be consulted as background for understanding and applying the material contained in this document.

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SECTION __: LEGISLATIVE FINDINGS *(Optional whether to include these in actual codified statute. Can be included, as appropriate, for purposes of final inclusion in the bill jacket or, in other words, the legislative history of the enacted bill.)*

The Legislature of [name of relevant state] finds the following:

- a) WHEREAS, Section [XXX] State Alcoholic Beverage Code [insert appropriate citation] makes it unlawful for a person under the age of 21 years to purchase, attempt to purchase, possess, or consume alcoholic beverages and makes it unlawful for any person to sell any alcoholic beverage to any person under the age of 21 years [i.e., restate here text of relevant state statute setting forth prohibited conduct];
- b) WHEREAS, according to both state and federal surveys, alcohol is overwhelmingly and consistently the most widely used drug at all adolescent age levels. A child who begins alcohol use prior to age 15 is four times more likely to experience alcohol dependence than one who refrains from alcohol use until age 21;¹
- c) WHEREAS, the National Research Council and Institute of Medicine stated that underage drinking has many serious consequences, including accidental death or injury, violence, risky sexual behavior, poor school performance, suicide and unwanted sexual activity;²
- d) WHEREAS, Monitoring the Future, the annual federal survey of drug use among school children, found that nationally in 2003, 45.6% of eighth-graders, 66.0% of 10th-graders and 76.6% of 12th-graders reported alcohol use, while 20.3% of eighth-graders, 42.4% of 10th-graders and 58.1% of 12th-graders reported that they had experienced drunkenness;³

[Insert state statistics if available]

- e) WHEREAS, the United States Supreme Court has recognized repeatedly that children deserve special solicitude because they lack the ability to assess and analyze fully the information presented through commercial media;⁴
- f) WHEREAS, the federal courts have held that there is a positive relationship between both alcoholic beverage advertising and consumption of the advertised products;⁵
- g) WHEREAS, an extensive set of research studies supports the federal courts' judicial notice that alcoholic beverage advertising influences underage drinking.⁶ These and other studies have shown that:

1. Youth with greater exposure to alcohol advertisements in magazines, on television, and at sporting and music events are more aware of the advertising and more likely to remember the advertisements they had seen;⁷
2. Youth who are more aware of televised beer advertisements hold more favorable views on drinking and express intentions to drink more often as adults than do children who are less aware of these ads;⁸
3. Exposure to and liking of alcohol advertisements affect whether young people will drink alcohol;⁹
4. African-American youth are exposed to more alcohol advertising per capita than youth who are not African-American, and Hispanic youth are exposed to more alcohol advertising per capita than youth who are not Hispanic;¹⁰
5. [Local studies or surveys of youth of the State of _____ show that _____;]
6. Similar studies of the influence of tobacco advertising show that tobacco advertising and promotional materials influence the likelihood of young teenagers experimenting with tobacco;¹¹

h) WHEREAS, recent studies have shown that those research reports that have failed to find a causal connection between alcohol advertising and youth consumption are methodologically flawed and do not provide a basis for refuting the evidence that such a connection does exist;¹²

i) WHEREAS, \$1.9 billion was spent on alcohol advertising in measured media (television, radio, print, outdoor, major newspapers and Sunday supplements) in 2002,¹³ and, working from alcohol company documents submitted to it, the Federal Trade Commission estimated in 1999 that the alcohol industry's total expenditures to promote alcohol (including through sponsorship, Internet advertising, point-of-sale materials, product placement, brand-logoed items and other means) were three or more times the alcohol industry's expenditures for measured media advertising,¹⁴ suggesting that the alcohol industry spent at least \$5.7 billion on advertising and promotion in 2002;

j) WHEREAS, the State of _____ has strongly supported classroom education and other youth programs designed to reduce youth alcohol use and prevent youth alcohol-related problems, including _____; and, outdoor alcohol advertising that encourages and glamorizes alcohol use in areas where children reside, play, recreate, and attend civic events, religious services and school undercuts these educational efforts;

k) WHEREAS, [relevant state and local educational, child protection, and public health groups] strongly endorse a restriction on outdoor alcohol advertising as a means to promote consistent educational messages to children and to reduce youth alcohol-related problems;

- l) WHEREAS, publicly visible advertisements, including billboards, are a unique and distinguishable type of product promotion and brand marketing that subjects the public to involuntary and unavoidable forms of solicitation;¹⁵
- m) WHEREAS, children often are exposed to billboards and other outdoor advertisements promoting alcohol simply by walking to school or playing in their neighborhoods, and there is no practical way for parents to monitor or limit the exposure of their children to the public advertisements;¹⁶
- n) WHEREAS, this statute *does not* attempt to enact either a blanket ban or overbroad ban on advertising of alcohol as were prohibited in the U.S. Supreme Court cases *44 Liquormart v. Rhode Island* and *Lorillard Tobacco Co. v. Reilly*. In *44 Liquormart*, the U.S. Supreme Court struck down Rhode Island’s blanket prohibition against truthful, nonmisleading speech about a lawful product, finding there was no question that the ban served an end unrelated to consumer protection. In *Lorillard*, the U.S. Supreme Court struck down Massachusetts regulations governing advertising of various tobacco products, which failed to target advertising and promotion practices that appeal to youth, encompassing instead all forms of communication, and even restricting a retailer’s ability to answer inquiries from adults about its tobacco products. No similar problems exist here. This statute affects property owned, leased or controlled by the State of [name of relevant state] and leaves advertisers with numerous alternative venues available to them, including but not limited to privately owned property and point-of-sale;
- o) WHEREAS, this statute only restricts the “time, place and manner” of alcoholic beverage advertisements in state publications or on public property [and in areas frequented by persons under the age of 21 years]; it does not directly regulate the sale of alcohol and does not unduly burden legitimate business activities or persons licensed by the [appropriate licensing body] to advertise and sell alcoholic beverages;
- p) WHEREAS, the advertising and marketing codes of the Beer Institute and the Distilled Spirits Council of the United States, Inc. (“DISCUS”), public policy advocacy organizations for the beer and distilled spirits industries, establish for their members voluntary prohibitions on billboard advertisements located within 500 feet from youth-oriented facilities. The DISCUS advertising and marketing code further establishes for its members a voluntary prohibition against advertising or marketing in college or university newspapers or on college and university campuses except for licensed retail establishments located on such premises;
- q) WHEREAS, the State of _____ has made numerous and substantial efforts to enforce underage drinking laws, by [list efforts by the state to educate youth with respect to underage drinking and to enforce existing laws to reduce underage drinking or the consequences of underage drinking]. Despite these efforts, alcohol use by the state’s youth remains a serious problem in the state, contributing significantly to the incidence of adolescent crime, suicide, drowning, truancy, and driving under the influence;
- r) WHEREAS, the State of _____ affirmatively opposes the sale of alcoholic beverages to, and drinking of, alcoholic beverages by its underage youth;

s) WHEREAS, this state legislature therefore determines that this statute regulating outdoor alcohol advertising is a reasonable and necessary means to protect and promote the health, safety and general welfare of the youth of the State of _____;

SECTION __: ADVERTISING OF ALCOHOLIC BEVERAGES IN STATE PUBLICATIONS

No person, corporation, or other legal entity may place any advertisement of any alcoholic beverage product in any publication of the State of [name of relevant state].

For purposes of this section, “advertisement” shall mean any sign, poster, placard, device, graphic display, or any form of advertisement bearing a word, mark, description, or other device used to advertise an alcoholic beverage or the business of a person who manufactures, sells, or distributes an alcoholic beverage.

For purposes of this section, “any publication of the state” shall mean any final daily, weekly, monthly, annual, biennial, regular, statutorily mandated or other report, study or multi-year plan issued by a state agency in multiple copies, inter-agency and intra-agency memoranda, public service announcements or brochures that have been distributed to the public.

For purposes of this section, “state agency” shall mean any state office, department, division, board, bureau, commission or corporation, provided, however, it shall not include the [name of relevant state] state legislature or any of its standing, special, select or joint committees, subcommittees and legislative commissions.

SECTION __ : PROMOTION OF ALCOHOLIC BEVERAGES AT STATE INSTITUTIONS OF LEARNING

No alcoholic beverage manufacturer, brewer, distiller, distributor, wholesaler, seller, agent thereof, or campus representative of any of the foregoing, whether holding a license in [the relevant state] or not, may conduct promotional activities for any alcoholic beverage product on the campus or other property of any state institution of learning [*optional*: where the median age of students is 21 years of age or under], nor may any such entities engage in activities that facilitate or promote the consumption of alcoholic beverages by the students of the state institution of learning on whose campus or other property the activity takes place.

This section prohibits the following:

1. sponsorship of radio, television, or Internet broadcasting services for events on the campus or other property of a state institution of learning
2. alcoholic beverage advertising in publications, including, but not limited to, any booklet, program book, yearbook, magazine, newspaper, periodical, brochure, circular or other similar publication published by, for, or on behalf of the institution of learning
3. financial assistance to an activity and acknowledgment of the source of the assistance

For purposes of this section, the term “state institution of learning” shall mean any institution of learning owned, leased, or controlled by [the relevant state], including primary and secondary institutions of learning, state universities and colleges, and other state post-secondary institutions of learning.

For purposes of this section, the term “campus publications” does not include a newspaper written and operated by students that maintains editorial independence from the administration of the state institution attended by the student operators.

Either

[*Optional*: This section does not affect on-campus, licensed retailers of alcoholic beverages.]

Or:

[*Optional*: This section does not apply to:

1. advertisements inside on-campus licensed premises [as defined by state and/or local law]
2. any advertisement that contains the name or slogan of the on-campus licensed premises that has been placed for the purpose of identifying the on-campus licensed premises
3. any neon or electronically charged sign, if otherwise allowed by the [local governing authority] Zoning Code, if on on-campus licensed premises and if provided as part of promotion of a particular brand of alcoholic beverages]

Commentary

This model statutory language prohibits any advertising or other promotional activities by alcohol industry members on the campus or other property of state institutions of learning. Because this language is intended to address the problem of alcohol advertising's exposure to underage youth, it should be accompanied by findings of fact justifying the state's complete ban. Individual states may choose to apply the language to all institutions of learning owned, leased or operated by the state. Individual states should consider carefully whether a ban should be imposed on all state campuses. It is likely that the median age of the student body at state two-year colleges is over 21 years of age and is higher than the median age of the student body at state four-year colleges. It may be argued that this language should not apply to campuses where over half of the student body is legally permitted to drink (21 years of age and over). Consequently, some states may choose to limit the scope of this language to primary (elementary) and secondary schools and/or to post-secondary institutions where the median age of the student body is 21 years of age or under. In all cases, in deciding which state institutions of learning to include in a statute banning alcohol advertising and promotion on state campuses, individual states should carefully examine any existing alcohol advertising policies at these institutions before enacting such a statute. Such policies may already exist.

This model language provides two optional provisions exempting or allowing limited advertising or promotions by on-campus, licensed retailers of alcoholic beverages. Individual states should consider carefully the impact of advertising bans on the rights of on-campus licensees to advertise or promote alcoholic beverage sales on their premises. These rights may arise out of written agreement between the relevant state institution of learning, existing alcohol advertising school board (or board of regents or trustees) policies, and the licensee, or from provisions in a state's alcoholic beverage control ("ABC") code and/or ABC regulations.

SECTION __ : ADVERTISING OF ALCOHOLIC BEVERAGES ON STATE-OWNED OR STATE-CONTROLLED PROPERTY

No person may place any advertisement of any alcoholic beverage product on any property owned or controlled by the State of [name of relevant state].

Every agreement for lease to a private party of property owned or controlled by the State of [name of relevant state] shall include a provision prohibiting the placement on such property of any advertisement for any alcoholic beverage product.

For purposes of this section, “advertisement” shall mean any sign, poster, placard, device, graphic display, or any form of advertisement bearing a word, mark, description, or other device used to advertise an alcoholic beverage or the business of a person who manufactures, sells, or distributes an alcoholic beverage in publicly visible locations.

For purposes of this section, “property owned or controlled by the State” shall include public entertainment facilities owned or controlled by the State of [name of relevant state], except that this section does not apply to:

1. advertisements inside licensed premises [as defined by state and/or local law] on public entertainment facility property
2. any advertisement that contains the name or slogan of the licensed premises on public entertainment facility property that has been placed for the purpose of identifying the licensed premises
3. any neon or electronically charged sign, if otherwise allowed by the [local governing authority] Zoning Code, if on a licensed premises on public entertainment facility property and if provided as part of promotion of a particular brand of alcoholic beverages

For purposes of this section, “public entertainment facilities” shall mean an arena, stadium, automobile racetrack, amphitheater, auditorium, theater, civic center, convention center, or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting, nationally sanctioned automobile racing, or entertainment events.

For purposes of this section, “public entertainment facility property” shall mean property on which a public entertainment facility and a licensed premises are located and related surrounding property.

SECTION __ : SPONSORSHIP OF CIVIC EVENTS HELD IN STATE PUBLIC PARKS AND ON OTHER STATE LANDS

Subsection __ : Definitions

- a) “Alcoholic beverage” means alcohol, or any beverage containing more than one-half of one percent of alcohol by volume that is capable of use for beverage purposes, either alone or when diluted.
- b) “Member of the alcoholic beverage industry” includes licensed manufacturers, brewers, distillers, distributors, wholesalers and sellers of alcoholic beverages.
- c) “Event” means a social occasion or activity held on a state park or other state land.
- d) “Adults-only event” means an event at which the attendance by persons under the age of 21 years is prohibited.
- e) “Event for families” means an event intended for the entertainment of families with children under 21 years of age, or an event that includes activities geared primarily to families with children under 21 years of age.
- f) “Event for youth” means an event intended for the entertainment of persons under 21 years of age, or an event that includes activities geared primarily to persons under 21 years of age.
- g) “State-sponsored event” means an event for which the State of _____ agrees 1) to contribute funds, goods, or services in return for recognition, acknowledgment or other promotional consideration; or 2) to act as a beneficiary of revenues either directly or indirectly generated from advertising or sponsorship agreements.
- h) “Non-State-sponsored event” is an event that is not a State-sponsored event within the meaning of subsection (g).
- i) “State parks or other state lands” means any public parks or other public lands owned, operated or controlled by the State of _____.
- j) “Sponsorship” means a business arrangement between the State of _____ or an event organizer under contract with the State, on the one hand, and a member of the alcoholic beverage industry, on the other, whereby the member of the alcoholic beverage industry contributes funds, goods, or services to an event to be held on a state park or state land in return for recognition, acknowledgment or other promotional consideration.
- k) “Alcoholic Beverage Sponsorship signs” means any manner of advertising or promotional signage, or any representation, image, artwork, photograph, logo, graphic, device, display, regalia, insignia, indicia, design, slogan, trade name, brand name, product name, permittee or licensee name, advertising specialties, marketing services, or other materials related to an alcoholic beverage product produced, distributed, or sold by a member of the alcoholic beverage industry, indicating the participation of the member of the alcoholic beverage industry in or sponsorship of all or part of an event held on a state park or other state land,

including the sponsorship or naming of all or part of the event, wherever located, whether indoor or outdoor.

- l) “Publicly visible locations” include, but are not limited to, outdoor billboards, awnings, electric signs, sides of buildings, screens, benches, barriers, stages, fences, signs attached to poles, posts or other figures, and freestanding signboards, wherever located, whether indoor or outdoor, however manufactured, and comprising whatever materials.

Subsection __: Alcoholic Beverage Sponsorship and Sponsorship Signs at State-Sponsored Events on State Parks or Other State Lands That Are State-Sponsored

- a) No member of the alcoholic beverage industry may advertise, promote, or sponsor a state-sponsored event.
- b) [*Optional*] Notwithstanding section (a) of this subsection, alcoholic beverage industry sponsorship and alcoholic beverage sponsorship signs are permitted at adults-only state-sponsored events.
- c) [*Optional*] This subsection shall not be construed to permit sponsorship or sponsorship signs that are otherwise restricted or prohibited by law.

Subsection __: Alcoholic Beverage Sponsorship and Sponsorship Signs at Events in State Parks or on Other State Lands That Are Not State-Sponsored

- a) No member of the alcoholic beverage industry may advertise, promote, or sponsor an event that is not state-sponsored on state parks or other state lands unless authorized by a permit for a special event issued by the State of _____.
- b) Notwithstanding section (a) of this subsection, no member of the alcoholic beverage industry may advertise, promote, or sponsor an event for families or an event for youth on state parks or other state lands.
- c) This statute shall not be construed to permit sponsorship or sponsorship signs that are otherwise restricted or prohibited by law.

Commentary

If a state chooses to allow alcohol sponsorship at events not sponsored by the state but nonetheless held on a state park or other state land, provisions for a special permit procedure should be enacted through which the state can impose time, location and manner conditions that minimize exposure of underage attendees to the alcohol advertising conducted at these events. The specific requirements for issuing permits are beyond the scope of these model provisions.

SECTION __: PUBLIC SERVICE ADVERTISING

This statute shall not be construed to prohibit the display of public service messages designed to communicate the hazards of alcoholic beverages or to encourage minors to refrain from consuming or purchasing alcoholic beverages. However, this section shall not be construed to permit such a message when it is made in conjunction with advertisements, sponsorship signs, or otherwise with the positive display of a representation, image, artwork, photograph, logo, graphic, device, display, regalia, insignia, indicia, design, slogan, trade name, brand name, product name, permittee or licensee name used for marketing or promotion of alcoholic beverages.

¹ B.F. Grant, D.A. Dawson, "Age at onset of alcohol use and its association with DSM-IV alcohol abuse and dependence: Results from the National Longitudinal Alcohol Epidemiologic Survey," *Journal of Substance Abuse* 9 (1997): 103-110.

² National Research Council and Institute of Medicine, *Reducing Underage Drinking: A Collective Responsibility*, Richard J. Bonnie and Mary Ellen O'Connell, Eds (Washington, DC: National Academies Press, 2003), 60.

³ L.D. Johnston, P.M. O'Malley, J.G. Bachman, *Monitoring the Future National Results on Adolescent Drug Use: Overview of Key Findings, 2003* (Bethesda, National Institute on Drug Abuse, 2004).

⁴ *Denver Area Educ. Telecommunications Consortium, Inc. v. FCC*, 518 U.S. 727, 746, 116 S.Ct. 2374, 2386, (1996) (plurality opinion) (upholding restrictions on programming imposed by the Cable Television Consumer Protection and Competition Act as a means of protecting children from indecent programming). In the context of the radio medium, the Court has approved extra restrictions on indecent speech because of the pervasiveness of the medium and the presence of children in the audience. See *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 685, 106 S.Ct. 3159, 3165, (1986) (cited for the proposition that "[a] high school assembly or classroom is no place for a sexually explicit monologue directed towards an unsuspecting audience of teenage students"); *FCC v. Pacifica Foundation*, 438 U.S. 726, 750-51, 98 S.Ct. 3026, 3040-41 (1978) (comparing indecent speech during hours when children are listening to the proverbial pig in the parlor); see also *Action for Children's Television v. FCC*, 58 F.3d 654, 657 (D.C.Cir.1995) (upholding the Public Telecommunications Act against a First Amendment challenge based on the state's compelling interest in protecting minors), cert. denied, --- U.S. ---, 116 S.Ct. 701 (1996). Similarly, the Supreme Court has sustained a law that protected children from non-obscene literature. See *Ginsberg v. New York*, 390 U.S. 629, 639-40, 88 S.Ct. 1274, 1280-81 (1968). And, while it has acknowledged a right to private possession of adult pornography in the home, see *Stanley v. Georgia*, 394 U.S. 557, 566, 89 S.Ct. 1243, 1248-49 (1969), the Court has clearly distinguished child pornography and allowed a stronger legislative response "to destroy a market for the exploitative use of children." *Osborne v. Ohio*, 495 U.S. 103, 109, 110 S.Ct. 1691, 1696 (1990); see also *New York v. Ferber*, 458 U.S. 747, 759, 102 S.Ct. 3348, 3355-56 (1982). The underlying reason for the special solicitude of children was articulated long ago: "A democratic society rests, for its continuance, upon the healthy, well- rounded growth of young people into full maturity as citizens." *Prince v. Massachusetts*, 321 U.S. 158, 168, 64 S.Ct. 438, 443 (1944).

⁵ See, e.g., *Central Hudson Gas & Elec. v. Pub. Serv. Comm'n*, 447 U.S. 557, 569 (1980) (regarding advertising and demand for electricity); *Capitol Broadcasting Co. v. Mitchell*, 33 F.Supp. 582, 586 (D.D.C. 1971) (regarding cigarette commercials broadcast on the electronic media and potential influence on young people); *Dunagin v. City of Oxford*, 718 F.2d 738, 747-51 (1983) (regarding alcohol advertising and consumption); *Oklahoma Telecasters Ass'n v. Crisp*, 669 F.2d 490 (10th Cir. 1983), rev'd on other grounds sub nom. *Capital Cities Cable, Inc. v. Crisp*, 467 U.S. 691 (1984) (regarding alcohol advertising and consumption); *Anheuser-Busch v. Schmoke*, 101 F.3d 325 (4th Cir. 1996), cert. denied 117 S.Ct. 1569 (1997).

⁶ See, e.g., P. Aiken et al, "Television advertisements for alcoholic drinks do reinforce under-age drinking," *British Journal of Addiction* 83 (1988):1399-1419; C. Atkin and M. Block, *Content and Effects of Alcohol Advertising* (Washington, DC: Bureau of Tobacco, Alcohol and Firearms, Report PB-82-12314, 1981); J. Grube and L. Wallack, "Television beer advertising and drinking knowledge, beliefs, and intentions among schoolchildren," *American Journal of Public Health* 84 (1994):254-0; J. Grube, "Television

alcohol portrayals, alcohol advertising, and alcohol expectancies among children and adolescents,” in S. Martin, ed., *The Effects of the Mass Media on the Use and Abuse of Alcohol* (Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Research Monograph No. 28, 1995), 105-21; R. Kusserow, *Youth and Alcohol: Controlling Alcohol Advertising That Appeals to Youth* (Washington, DC: Department of Health and Human Services, Office of Inspector General, OEI-09-01-00654, November 1991); S.E. Martin et al., “Alcohol Advertising and Youth,” *Alcoholism-Clinical and Experimental Research* 26 (June 2002): 900-906; M. Slater et al., “Male adolescents’ reactions to TV beer advertisements: The effects of sports content and programming context” *Journal of Studies on Alcohol* 57 (1996): 425-33.

⁷ R.L. Collins, T. Schell, P.L. Ellickson, and D. McCaffrey, “Predictors of beer advertising awareness among eighth graders,” *Addiction* 98 (2003): 1297-1306.

⁸ J.W. Grube, “Television alcohol portrayals, alcohol advertising and alcohol expectancies among children and adolescents,” in *Effects of the Mass Media on the Use and Abuse of Alcohol*, eds. S.E. Martin and P. Mail (Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, 1995), 105-121.

⁹ J.W. Grube, “Alcohol advertising—a study of children and adolescents: preliminary results,” Available at http://www.prev.org/prc/prc_videopresentations_grube_aasca.html (cited 19 Nov 2003).

¹⁰ Center on Alcohol Marketing and Youth, *Exposure of African-American Youth to Alcohol Advertising* (Washington, D.C.: Center on Alcohol Marketing and Youth, 2003) Center on Alcohol Marketing and Youth, *Exposure of Hispanic Youth to Alcohol Advertising* (Washington, D.C.: Center on Alcohol Marketing and Youth, 2003).

¹¹ Campaign for Tobacco-Free Kids, *Tobacco Marketing That Reaches Kids Point-of-Purchase Advertising and Promotions* (August 20, 2003), Available at <http://www.tobaccofreekids.org/research/factsheets/pdf/0075.pdf> (cited November 5, 2003); see, e.g., John P. Pierce, PhD et al, “Tobacco Industry Promotion of Cigarette and Adolescent Smoking,” *J. Am. Med. Assoc.* 511 279, no. 7 (1998) (finding “tobacco promotional activities are causally related to the onset of smoking”); U.S. Dep’t of Health & Human Servs. et al, *Preventing Tobacco Use Among Young People: A Report of the Surgeon General* (1994) 163.

¹² H. Saffer, “Studying the effects of alcohol advertising on consumption,” *Alcohol Health & Research World* 20 (1996): 266-72; E. Thorson, “Studies of the effects of alcohol advertising: Two underexplored Aspects,” in S. Martin, ed. *The Effects of the Mass Media on the Use and Abuse of Alcohol* (Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Research Monograph No. 28, 1995), 159-96.

¹³ TNS Media Intelligence/CMR; Spending on radio from Miller-Kaplan Associates.

¹⁴ Federal Trade Commission. Appendix B. *Self-Regulation in the Alcohol Industry: A Review of Industry Efforts to Avoid Promoting Alcohol to Underage Consumers*. (Washington, DC: Federal Trade Commission, 1999) iii.

¹⁵ *Packer Corp. v. Utah*, 285 U.S. 105, 110-111, 52 S.Ct. 273 (1931) (outdoor advertising); *Anheuser-Busch v. Schmoke*, *supra*, 101 F.3d at 328 (outdoor advertising).

¹⁶ See *Anheuser-Busch v. Schmoke*, *supra*, 101 F.3d at 328 (outdoor advertising).