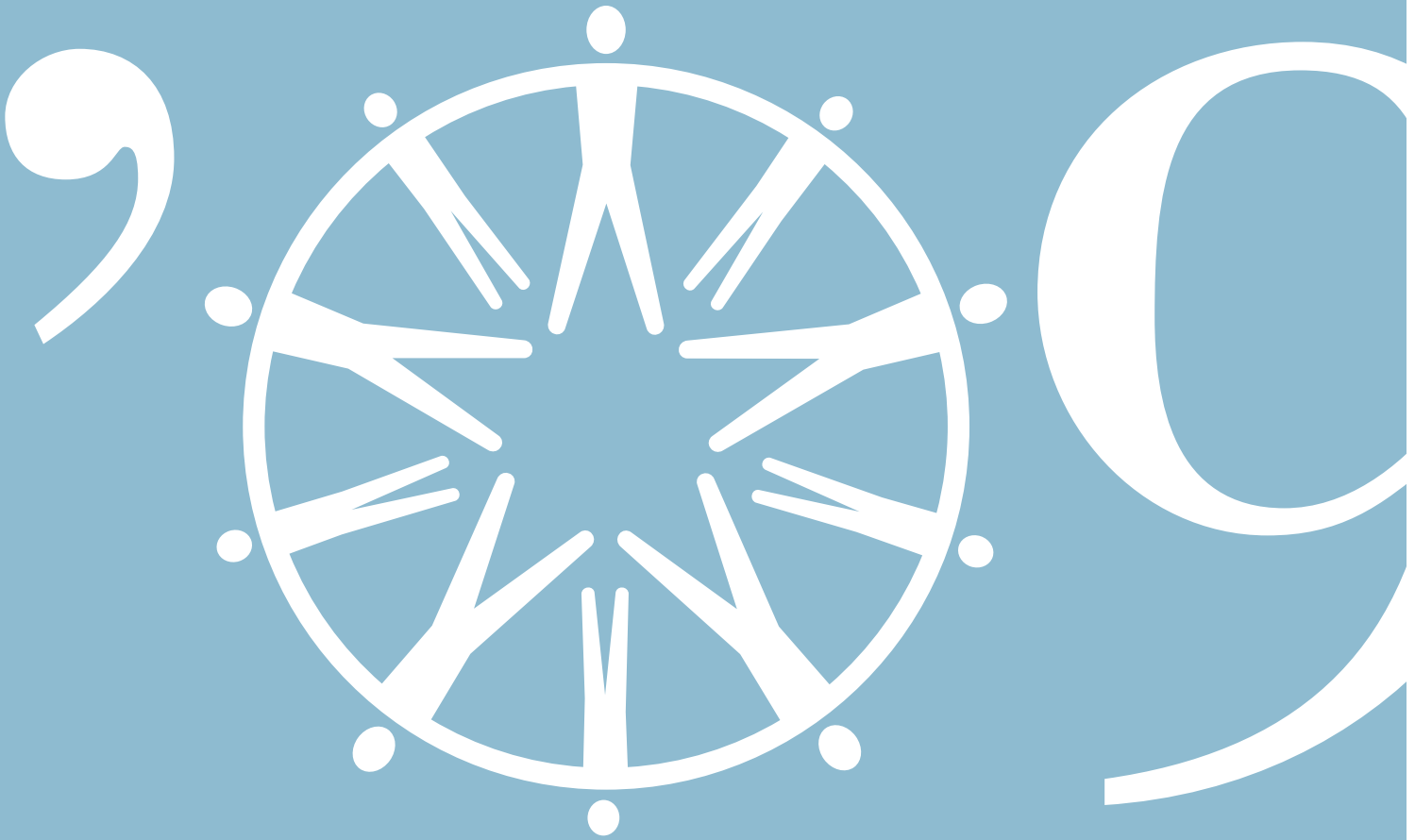


REPORT CARD 2009

YOUTH SUBSTANCE ABUSE ISSUES:  
RESEARCH AND LEGISLATION

## Finishing a Decade with Clarity and Purpose



**Texans Standing Tall**

Together creating healthier  
and safer communities.

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### About Texans Standing Tall

**Texans Standing Tall closes out the decade with clarity and purpose** – sure, now more than ever, that our coalition work is essential to youth health and safety and that the data demonstrates our efforts are worthwhile and must not stop. We focus on the health and safety of our youth and the communities in which they live and grow to adulthood because our youth don't find danger or safety in isolation, they experience both throughout their communities.

Texans Standing Tall has expanded to address not only alcohol, but tobacco and other drugs as well. Because the voice of our statewide community rang clear that our coalition and the work we do is unique and critical, we acquired our own non-profit status so that we could expand our prevention efforts.

Following the successes of the past decade, **Texans Standing Tall enters the new decade with dedication and resolve.** New grant funding from the U.S. Department of Education allows TST the opportunity to specifically target college campuses to reduce underage alcohol use/abuse. Additional funding from the Substance Abuse Mental Health Services Administration (SAMHSA) permits us to provide expanded service to our coalition members and others throughout Texas to implement environmental strategies enabling us to focus more attention on statewide prevention strategy implementation.

TST appreciates your partnership and support as we work together for the common vision of making alcohol, tobacco, and other drugs irrelevant in the lives of youth.

## About the Report Card

**THIS YEAR, 2009**, marks the fourth year for the Texans Standing Tall Statewide Coalition to release an annual Report Card and host a series of Regional Policy Forums across Texas. In that time, Texans Standing Tall (TST) has distributed an ever-increasing number of Report Cards annually. All TST Report Cards are posted at [www.texansstandingtall.org](http://www.texansstandingtall.org).

The Report Card has become identified as an established prevention resource by people from all sectors of the statewide community. For the past two years, TST has developed a PowerPoint presentation based on the Report Card that provides the basis for the state-level presentations at each year's Regional Policy Forums. In an afternoon breakout group, participants are given a copy of the presentation and trained on how to utilize it in their own communities as a tool for preventing youth alcohol, tobacco, and other drug use.

The Report Card 2009 includes information on emerging trends in the tobacco industry and new research on underage drinking. It also provides an overview of the Regional Policy Forums and of the Regional Forum evaluation process which was expanded in 2009. As always, the Report Card provides an overview of statewide youth and college-aged substance use and consequence trends with updated information and new data on prescription drug abuse and youth. It also includes information on evidence-based environmental prevention strategies and an overview of actions in the 81st Legislature related to substance abuse prevention. It concludes with highlights on two prevention success stories of population-based, environmental change.

The Regional Policy Forums and Report Card are made possible through federal grant funding from the Drug Free Communities (DFC) Support Program of the Substance Abuse and Mental Health Services Administration (SAMHSA), support from Regional Partners throughout Texas, and Texans Standing Tall.

## Report on Regional Forums

**SINCE 2006, TEXANS STANDING TALL (TST)** has organized Regional Policy Forums throughout the state, in partnership with local community coalitions, with the number of Forums increasing from five to seven. Regional Policy Forums are held in Houston, Dallas, San Antonio, El Paso, Midland, Lufkin, and Austin. Three of the Regional Policy Forums have been self-sustaining.

The Forums bring together local and state level participants to mobilize them in a coordinated, strategic way to effect change at local and state levels on youth prevention issues. At each Forum, community members learn about the nature of the youth substance abuse problem at a state and local level as well as evidence-based environmental prevention strategies to solve the problem. In the afternoon, participants attend break-out groups where they are mobilized to take action on different statewide and local strategies each year. Because alcohol and tobacco are the substances most used by youth in Texas, the Regional Policy Forums give particular attention to preventing youth alcohol and tobacco use.

In 2009, the TST Report Card again provided the framework for the state-level youth and college aged substance abuse information with data from the 2006 Texas School Survey of Secondary Students and the 2005 Texas College Survey. Particular attention was given to tobacco with information on the Surgeon General's Report, *The Health Consequences of Involuntary Exposure to Tobacco Smoke* and how Texas ranks on the Centers for Disease Control's recommendations for tobacco prevention and control spending. At a state level, the Forums focused on three evidence-based environmental strategies that require State-level policy change before they can be utilized locally: alcohol exclusion law, statewide smoking ban, and keg registration. More information on these strategies can be found in the "Environmental Strategies" section of this Report Card. Local strategies have included addressing access to alcohol and community festivals, passing a tobacco ordinance, and social hosting ordinances. Participants wrote letters to educate State and local decision makers about these strategies.

## Report on Regional Forums

### Evaluation of Forums

Since the inception of the Regional Policy Forums in 2006, TST has conducted a comprehensive evaluation of the Forums to gauge the impact, knowledge transfer, participant demographics, and perceptions and attitudes regarding alcohol, tobacco, and other drug issues in the participant's community. Research and Educational Services (REdS) of Houston professionally administers all evaluation tools, which include: Pre/Post Tests, Training Evaluation Survey, and a Community Assessment Survey. This evaluation has given TST a good picture of the immediate and short-term outcomes of the Regional Forums, and each year participants report an increase in knowledge, understanding, and capacity to address youth substance abuse problems in their community. However, TST had no capacity to follow-up with participants to determine if they were taking action following the Forums.

In August 2008, TST received a Service to Science Award from the Southwest Center for the Application of Prevention Technologies. This award helps innovative substance abuse prevention interventions develop and document their effectiveness through enhanced evaluation. With this award, two staff members received extensive training in evaluation methodology and personalized technical assistance for the Regional Policy Forum project. This led to the implementation of an online survey in December 2008 that was sent to all past Forum participants and asked questions about community action taken since attending a Regional Policy Forum. Preliminary results from the first survey in December showed that 85.9% of respondents educated and disseminated information regarding environmental strategies, 73.7% increased community participation and involvement, and 53.1% sent a letter to a decision maker.

As Service to Science awardees, TST was then able to apply for a mini-subcontract for Regional Policy Forum evaluation enhancement from the Center for Substance Abuse Prevention of the Substance Abuse Mental Health Services Administration. In January 2009, TST received this award and began working with Dr. Robert Landry of REdS to repeat the online survey and report on long-term outcomes through the survey and follow-up focus groups. This process began in earnest in June 2009, and the final report will be prepared in early 2010.

## Report on Regional Forums

TST is proud to report that the Regional Policy Forum model has shown positive short-term outcomes. Results from post test evaluations indicate that people leave the Forums more knowledgeable about youth substance abuse issues and prevention strategies that can best address them. Results from the 2009 Training Evaluation Survey of all Forum participants indicated the following:

- 84.6% of participants reported increased understanding of environmental strategies
- 86% of participants reported increased understanding of advocacy
- 85.6% of participants reported increased understanding of how to achieve social change.

The Community Assessment Survey measures adult perception and behavior around alcohol, tobacco, and drug use in their community. It is administered to each Forum participant. This year **94.2%** of respondents stated that believe there is an alcohol or drug problem in their city. Additionally, **73.1%** believed that not enough attention was being given to the alcohol or drug problem in their community, and only 22.1% believed sufficient attention was being given to the problem.

The following chart indicates Community Assessment Survey results on perception of availability of alcohol, tobacco, and other drugs to youth in the participant’s community.

### Participant Perceptions of Youth Access to Drugs

	EASY/FAIRLY EASY	HARD/VERY HARD
<b>Alcohol</b>	<b>72.8%</b>	<b>4.5%</b>
<b>Cigarettes</b>	<b>65.9%</b>	<b>4.5%</b>
<b>Other drugs</b>	<b>65.3%</b>	<b>1.9%</b>

## Changes in the Tobacco Environment

**THIS SECTION OF THE REPORT CARD** highlights new information in the prevention field, focusing on research, products, and agency developments that influence prevention efforts, public health and safety.

### The Family Smoking Prevention & Tobacco Control Act

On June 22, 2009, President Barack Obama signed the *Family Smoking Prevention & Tobacco Control Act* into law. This landmark piece of legislation gave the United States Food and Drug Administration (FDA) sweeping authority to oversee and regulate the manufacturing, marketing and sale of all tobacco products in the United States.

Key elements of this legislation include:

- **Center for Tobacco Products:** The FDA will create a new Center for Tobacco Products to oversee the science-based regulation of all tobacco products in the United States.
- **Full Disclosure of Ingredients and Additives:** By January 2010, tobacco manufacturers and importers will submit to the FDA information on all ingredients and additives in tobacco products. This will include a description of the nicotine content and delivery, as well as the health consequences of the tobacco products.
- **Stopping Youth-Focused Marketing:** By April 2010, the FDA will re-issue the agency's 1996 regulation aimed at reducing young people's access to tobacco products and curbing the appeal to the young.
- **Banning Candy-Flavored Cigarettes:** Starting in October 2009, cigarettes are prohibited from having candy, fruit, and spice flavors.

In addition, the FDA will have the power to regulate the marketing of tobacco products, including banning the use of terms like "light" or "mild" to market cigarettes. Other measures included in the legislation are:

- **New Warning Labels:** By July 2011, warning labels for cigarettes and smokeless tobacco products will be revised and strengthened. The warnings will comprise the top 50% of the front and rear panels of the package.
- **Banning Tobacco-Related Giveaways:** Tobacco manufacturers will no longer be able to sell or give away clothing or other items which bear the brand name or logo of a tobacco product.

## Changes in the Tobacco Environment

- Banning of Sponsorships:** Tobacco manufacturers will no longer be able to sponsor sporting, athletic or entertainment events using tobacco product brand names and logos.

Before enactment of the new law, tobacco products were largely exempt from regulation under the nation's federal health and safety laws. Under this new law, the regulatory activities for tobacco will be guided by a standard of what is appropriate for the protection of the public's health.

### Snus: A New Product in the "Smoke-Free" Tobacco Category

According to tobacco industry records, cigarette sales are falling at a rate of 2% to 3% each year. The category of smokeless tobacco products however, is experiencing a rise in sales of 6% to 8% annually. Therefore, tobacco corporations are developing new products specifically designed to boost their market share in this category.

#### Snus:

Pronounced "snoos", like loose, is a "smokeless" and "spit-less" tobacco product that is packaged in a dry, teabag-like pouch and placed between the lip and gums for an instant nicotine fix. Snus are sold in metal tins kept refrigerated in stores.

Each tin contains 15-20 small packets of tobacco. When placed under the upper lip for about 30 minutes, Snus releases nicotine that is absorbed into the bloodstream.



## Changes in the Tobacco Environment

Snus is marketed as a tobacco product attractive to those who find traditional chewing tobacco disgusting, as well as a product that can be used in places where cigarettes are banned. Snus comes in flavors – Mellow and Frost. Another attractive feature of Snus is its price point because it is not taxed at the rate of cigarettes. A tin of Snus costs approximately \$4.50.

### Health Risks and Snus

Snus is modeled after the Swedish version that has been available for decades. Studies of Swedish Snus have found no elevated incidence of mouth cancer compared with the general population. Snus is not intended to be inhaled, therefore second-hand smoke is not an issue. A University of Minnesota study reported lower levels of nitrosamines, the class of carcinogen that most concerns public-health officials, than other traditional brands of smokeless tobacco. However, Snus contains at least as much nicotine as cigarettes.

In 2007, a Swedish report that studied Swedes from 1978 to 2004 found no increased incidence of oral or lung cancer among Snus users, but it did find that they were more likely to get pancreatic cancer than non-users.

### Youth and Snus

*The Campaign for Tobacco-Free Kids* raises the fear that Snus is a product that appeals to youth. They come in a variety of flavors, are packaged like mints, and are easy to conceal even in a classroom. They can be purchased with potential ease by youth and fly under the radar of adults. The appeal of the product, combined with nicotine has public health officials worried that these smokeless and addictive alternatives to cigarettes could create a new generation of tobacco users. Snus presents a critical change in the tobacco prevention landscape and opportunity for coalitions to begin educating adults about and addressing prevention of youth use of this and other new smokeless tobacco products.

Now under the Food & Drug Administration regulation, tobacco products like Snus will be fully studied for its ingredients and the FDA will serve as a gatekeeper in terms of marketing such products.

## Fresh Perspectives on Underage Drinking

### CAMY Awarded \$4 Million from CDC

The Center on Alcohol Marketing and Youth (CAMY) at the Johns Hopkins Bloomberg School of Public Health was awarded \$4 million in funding from the Centers for Disease Control and Prevention's (CDC) National Center for Chronic Disease Prevention and Health Promotion to monitor youth exposure to alcohol advertising over the next five years. In 2006, Congress passed unanimously and then-President George W. Bush signed into law the Sober Truth on Preventing Underage Drinking (STOP) Act, the first piece of legislation solely devoted to underage drinking ever passed by Congress. Among other provisions, this legislation charged the Secretary of Health and Human Services with monitoring the "rate of exposure of youth to advertising and other media messages encouraging and discouraging alcohol consumption." The Surgeon General recommended ongoing, independent monitoring of alcohol marketing to youth as part of the 2007 Surgeon General's *Call to Action To Prevent and Reduce Underage Drinking*.

Founded at Georgetown University in 2002 and funded by The Pew Charitable Trusts and the Robert Wood Johnson Foundation until June of 2008, the Center on Alcohol Marketing and Youth pioneered new methodologies for assessing youth exposure, using industry-standard sources such as Nielsen Media Research and Arbitron. In January 2008, the Center and its executive director, David H. Jernigan PhD, moved to the Bloomberg School.

The CDC funding will permit CAMY to resume its monitoring of youth exposure to alcohol advertising on television and magazines. Exposure in other media will be tracked in future years, as funding permits.

### New Resource on Underage Drinking

In 2008, *Pediatrics*, the official journal of the American Academy of Pediatrics, published a supplement to their April issue devoted specifically to underage drinking issues. The supplement included seven articles and a foreword written by Kenneth Moritsugu, MD, MPH, Former Acting Surgeon General of the United States who penned the Surgeon General's *Call to Action to Prevent and Reduce Underage Drinking*, and by Ting-Kai Li,

## Fresh Perspectives on Underage Drinking

MD, Director of the National Institute on Alcohol Abuse and Alcoholism (NIAAA). The supplement expands on themes found in the Surgeon General's *Call to Action* such as understanding underage drinking in the overall context of human development and recognizing that it is a serious public health issue. As stated in the foreword, the supplement "can be viewed as a means of beginning to access the more extensive scientific literature on which the *Call to Action to Prevent and Reduce Underage Drinking* is based." The information was intended to be useful for pediatricians as they do their work to foster healthy child and adolescent development.

The supplement includes the following articles:

- "Underage Drinking: A Developmental Framework"
- "Early Developmental Processes and the Continuity of Risk for Underage Drinking and Problem Drinking"
- "Transitions into Underage and Problem Drinking: Developmental Processes and Mechanisms Between 10 and 15 Years of Age"
- "A Developmental Perspective on Alcohol and Youths 16 to 20 Years of Age"
- "Preventive Interventions Addressing Underage Drinking: State of the Evidence and Steps Toward Public Health Impact"
- "Developmentally Informed Research on the Effectiveness of Clinical Trials: A Primer for Assessing How Developmental Issues May Influence Treatment Responses Among Adolescents with Alcohol Use Problems"
- "Evidence-Based Treatments for Alcohol Use Disorders in Adolescents"

This supplement extends the impact of the Surgeon General's *Call to Action* by providing scientific articles which support the research included in the *Call to Action*. Understanding underage drinking in the context of adolescent development is an important component of understanding the societal and public health implications of this problem as well. The supplement makes this research available to pediatricians and can be used as a tool by coalitions to educate and engage members of the medical community in efforts for community change. It can be downloaded in its entirety for free by visiting [www.pediatrics.aappublications.org](http://www.pediatrics.aappublications.org).

## Overview of Substance Abuse in Texas – Secondary School

**AN IMPORTANT FOCUS** of the TST annual Report Card is to document the current status of youth substance abuse in Texas, focusing on key factors and analyzing specific trends.

**Annually, underage drinking costs the state of Texas more than \$6.4 billion.**

This number includes, but is not limited to, such expenses as uninsured medical costs, property damage, loss of life, youth injuries, fetal alcohol syndrome among underage mothers, as well as the cost of alcohol treatment for youth (Pacific Institute of Research & Evaluation, 2009).

The latest research from the Center For Disease Control (CDC) indicates, **21.1%** of Texas youth are smoking today. **Additionally, estimates demonstrate that 35,900 more youth will take up smoking this year** and that eventually **503,000** Texas youth alive today will die from smoking.

The following section of the Report Card 2009 will take a look at secondary school and collegiate data reflecting trends in substance use.

### Middle School/High School Students:

The latest *Texas School Survey on Substance Abuse Among Students Grades 7-12 (2008)* from the Department of State Health Services (DSHS) offers insight into the scope of the problem of youth substance abuse in Texas.

Alcohol and tobacco are considered “gateway” drugs because their early use is a predictor that an adolescent will try other substances. It stands to reason, therefore, that strategies that change the community environment to reduce underage alcohol and tobacco use will therefore reduce the use of other drugs as well. The following chart shows the average age of first use for alcohol, tobacco and marijuana, comparing data from 2006 with data from 2008.

## Overview of Substance Abuse in Texas – Secondary School

### Average Age of First Use of Substances Among Students in Grades 7-12

SUBSTANCE	2006	2008
<b>Alcohol</b>	<b>12.2 years of age</b>	<b>12.3 years of age</b>
<b>Tobacco</b>	<b>12.7 years of age</b>	<b>12.9 years of age</b>
<b>Marijuana</b>	<b>13.5 years of age</b>	<b>13.6 years of age</b>

Alcohol continues to be the most widely abused substance among students, with 63% of Texas secondary students reporting that they had used alcohol at some point in their lives, down from 66% in 2006. The survey also indicates past month use of alcohol also decreased to 30.4% of students.

The following charts demonstrate both long-term (1990-2008) and short-term (2006-2008) trends in substance abuse among Texas secondary school students.

### Long-Term Trends of Use

EVER USED	1990	2008	% OF CHANGE
<b>Alcohol</b>	<b>81.0%</b>	<b>62.9%</b>	<b>-22.3%</b>
<b>Tobacco</b>	<b>56.2%</b>	<b>31.7%</b>	<b>-43.5%</b>
<b>Marijuana</b>	<b>22.6%</b>	<b>24.6%</b>	<b>+8.8%</b>

PAST MONTH USE	1990	2008	% OF CHANGE
<b>Alcohol</b>	<b>43.6%</b>	<b>30.4%</b>	<b>-30.3%</b>
<b>Tobacco</b>	<b>22.9%</b>	<b>12.9%</b>	<b>-43.7%</b>
<b>Marijuana</b>	<b>7.8%</b>	<b>10%</b>	<b>+28.2%</b>

## Overview of Substance Abuse in Texas – Secondary School

### Short-Term Trends of Use

EVER USED	2006	2008	% OF CHANGE
<b>Alcohol</b>	<b>65.9%</b>	<b>62.9%</b>	<b>-4.6%</b>
<b>Tobacco</b>	<b>35.4%</b>	<b>31.7%</b>	<b>-10.5%</b>
<b>Marijuana</b>	<b>26.4%</b>	<b>24.6%</b>	<b>-6.8%</b>
PAST MONTH USE	2006	2008	% OF CHANGE
<b>Alcohol</b>	<b>31.5%</b>	<b>30.4%</b>	<b>-3.5%</b>
<b>Tobacco</b>	<b>15.2%</b>	<b>12.9%</b>	<b>-15%</b>
<b>Marijuana</b>	<b>11%</b>	<b>10%</b>	<b>-9.1%</b>

As can be seen from these numbers, there are many positive trends. Youth alcohol and tobacco use continues to drop significantly both in the long-term and short-term. Although the long-term trends of marijuana use remain statistically high, the short-term numbers reveal that this trend has been reversing in recent years. We must ensure that current trends continue.

Positive trends are also apparent in more specific areas:

- In 2008, **8.1%** of secondary students said they had attended class while drunk at least once during the past school year. While disturbing, this is down from 9.2% in 2006 and 10% in 2004.
- Binge drinking, defined as having five or more drinks in one setting on at least 1 day of past 30 days, was reported by 20.6% of the secondary students in 2008. This is down from 21.9% in 2006.
- In 2008, **19%** of high school seniors said that they had driven a car after having several drinks at least once during the past year. This is down from 21.2% in 2006 and 24% in 2004.

## Overview of Substance Abuse in Texas – Secondary School

Alcohol continues to be viewed as the easiest of the substances to get, although this perception continues to decrease. This perception is illustrated in the following chart.

### Somewhat/Very Easy to Get

	2006	2008	% OF CHANGE
<b>Alcohol</b>	<b>66.9%</b>	<b>66.0%</b>	<b>-1.3%</b>
<b>Tobacco</b>	<b>58.4%</b>	<b>56.4%</b>	<b>-3.4%</b>
<b>Marijuana</b>	<b>41.6%</b>	<b>38.8%</b>	<b>-6.7%</b>

The report also sheds light on how secondary school students are obtaining alcohol.

### Sources of Alcohol for Secondary School Students Who Report Past-Month Drinking, 2008

<b>At Parties</b>	<b>63.3%</b>
<b>From Friends</b>	<b>54.3%</b>
<b>At Home</b>	<b>18.7%</b>
<b>At A Store</b>	<b>17.6%</b>
<b>From Another Source</b>	<b>36.8%</b>

There is considerable room for improvement regarding youth social access to alcohol – those who obtain alcohol at parties or from friends. However, these data reflect efforts to reduce underage drinking in terms of youth obtaining alcohol from stores and from home are proving successful.

The data presented in the report show that efforts to reduce youth substance abuse have had a positive impact over the past 18 years. Still, the rates of youth substance abuse remain unacceptably high, underlying the continued need for even more extensive use of effective prevention strategies.

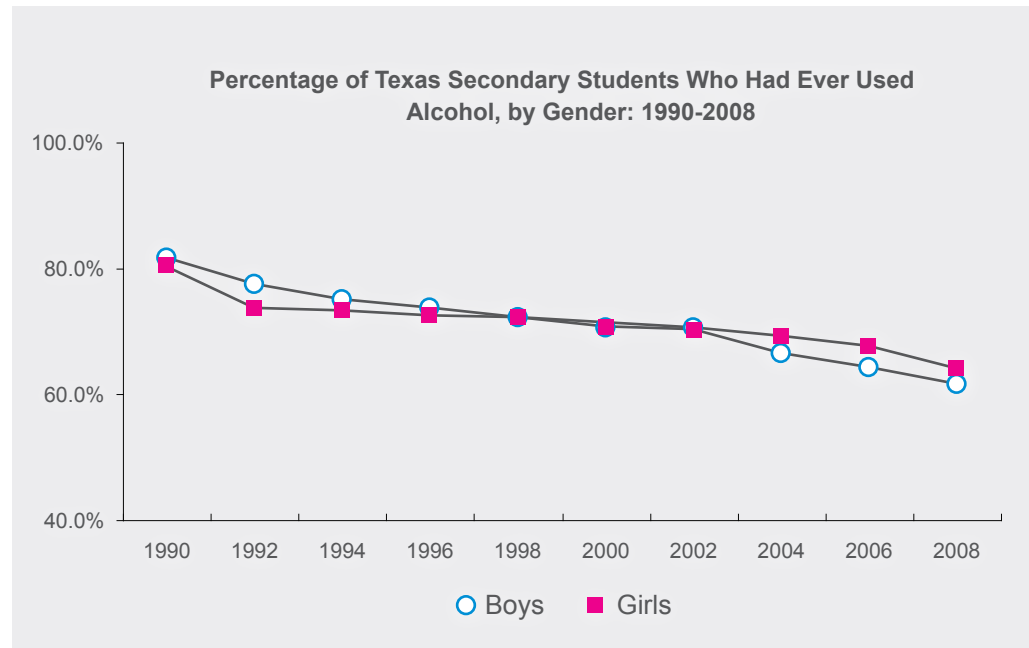
## Overview of Substance Abuse in Texas: Secondary School

### Long-Term Trends of Youth Male-Female Drinking

**As of 2002, girls have had a higher rate of alcohol use than boys.** Since its inception in 1990, the Texas School Survey on Substance Abuse Among Students Grades 7-12 has shown a downward trend for lifetime use and past-month use for both male and female students. However, in recent years the trend has slowed dramatically for girls as identified in the following graphics.

**Texas School Survey Grades 7-12: Lifetime Alcohol Use**

	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
<b>Boys</b>	81.6%	77.5%	75.0%	73.7%	72.1%	70.9%	70.6%	66.5%	64.2%	61.7%
<b>Girls</b>	80.5%	73.9%	73.5%	72.9%	72.2%	70.6%	71.3%	69.3%	67.5%	64.1%



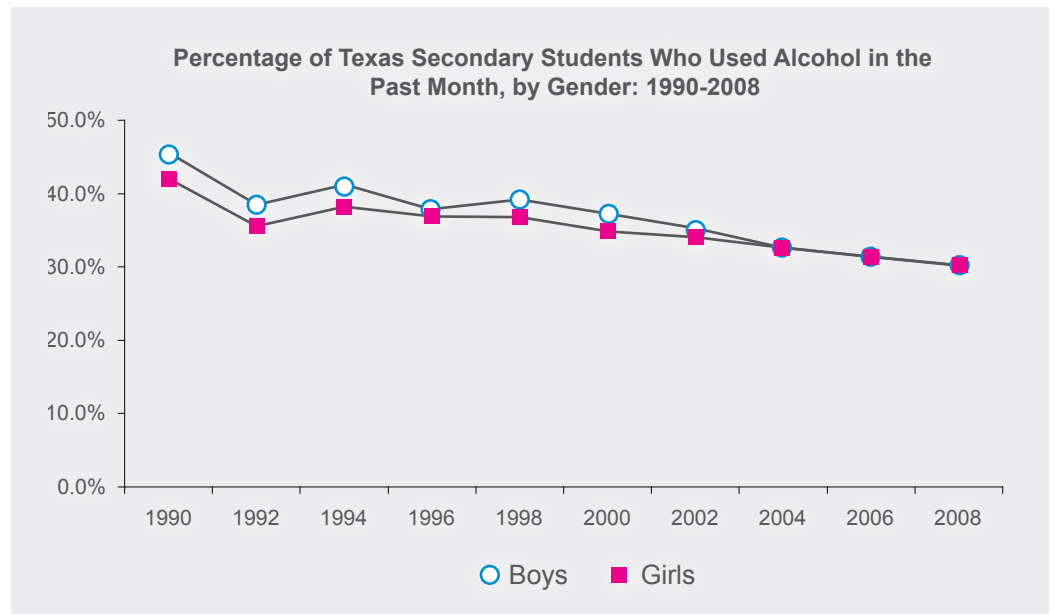
From 1990 to 2008, youth male lifetime use of alcohol among Texas Secondary Students dropped **24.3%**. Meanwhile, lifetime use of alcohol among female secondary students dropped **20.3%** from 1990 to 2008.

This decade also saw the first time when females in grades 7-12 passed their male counterparts in past-month use of alcohol.

## Overview of Substance Abuse in Texas: Secondary School

Texas School Survey Grades 7-12: Past Month Alcohol Use

	1990	1992	1994	1996	1998	2000	2002	2004	2006	2008
Boys	45.3%	38.6%	40.8%	37.7%	39.2%	37.3%	34.9%	32.5%	31.4%	30.3%
Girls	42.1%	35.6%	38.1%	37.0%	36.9%	35.0%	34.1%	32.7%	31.5%	30.4%



The graphic above demonstrates that girls are now drinking more than boys. From 1990 to 2008 the *Texas School Survey on Substance Abuse Among Students Grades 7-12* reports that past-month use among Texas male secondary students dropped **33.1%**. The rate for Texas female secondary students for past-month alcohol use dropped **27.8%**.

### Prescription Drug Abuse

The illegal use of prescription drugs by youth is a growing problem both nationally and statewide. Reports from community members indicate a growing concern over this trend. 2008 marked the first year that the Texas School Survey reported on non-medical use of the following prescription drugs: oxycodone (OxyContin, Percodan, Percocet), hydrocodone (Vicodin, Lortab, Lorcet), Diazepam (Valium), and Alprazolam (Xanax). The following table illustrates lifetime and past-month use among secondary students.

## Overview of Substance Abuse in Texas: Secondary School

### Prescription Drug Abuse by Secondary Students, 2008

	LIFETIME USE	PAST-MONTH USE
<b>OxyContin, Percodan, Percocet</b>	<b>3.0%</b>	<b>0.9%</b>
<b>Vicodin, Lortab, or Lorcet</b>	<b>6.3%</b>	<b>2.2%</b>
<b>Valium or Diazepam</b>	<b>3.5%</b>	<b>0.9%</b>
<b>Xanax or Alprazolam</b>	<b>12.7%</b>	<b>4.8%</b>

These use rates, while disturbing, are still dramatically less than the lifetime and past-month use rates for alcohol, tobacco, and marijuana.

## Overview of Substance Abuse in Texas: Collegiate Level

Obtaining data on college alcohol and drug abuse can be challenging because institutes of higher education must fund any data collection themselves or find community partners willing to fund the data collection. Many institutes of higher education utilize surveys from the Core Institute at Southern Illinois University, Carbondale. The Core Institute compiled all of the results of Texas colleges and universities that elected to administer the survey to their students in 2006 to create an executive summary. The following information comes from the 2006 Executive Summary.

### Past-Year and Past-Month Use 2006 – Freshman

	PAST YEAR	PAST 30 DAYS
<b>Alcohol</b>	<b>69.2%</b>	<b>51.2%</b>
<b>Marijuana</b>	<b>23.8%</b>	<b>12.7%</b>
<b>Illegal drug other than marijuana</b>	<b>11.4%</b>	<b>6.0%</b>

### Past-Year and Past Month Use 2006 – All Students

	PAST YEAR	PAST 30 DAYS
<b>Alcohol</b>	<b>77.0%</b>	<b>61.3%</b>
<b>Marijuana</b>	<b>23.2%</b>	<b>12.5%</b>
<b>Illegal drug other than marijuana</b>	<b>12.3%</b>	<b>6.3%</b>

The Executive Summary also looked at underage drinking and found that 51.4% of students under the age of 21 report consuming alcohol in the previous 30 days. It is interesting to note that the Texas School Survey of Substance Use among secondary students found that 45.2% of 12th graders report past-month alcohol use so this supports the assumption that students increase their drinking in a college environment.

In looking at the 2006 Executive Summary, there are some gender differences in regards to different behaviors around alcohol as indicated in the chart on the following page.

## Overview of Substance Abuse in Texas: Collegiate Level

### Gender differences and behaviors around alcohol – Freshman

	FEMALE	MALE
<b>Past 30 Day Use of Alcohol</b>	<b>60.5%</b>	<b>62.5%</b>
<b>6 or more episodes of binge drinking* in the past two weeks</b>	<b>2.6%</b>	<b>6.8%</b>
<b>Driven a Car While Under the Influence</b>	<b>27.7%</b>	<b>34.3%</b>

\*Binge drinking is defined as five or more drinks at one sitting.

### Gender differences and behaviors around alcohol – All Students

	FEMALE	MALE
<b>Past 30 Day Use of Alcohol</b>	<b>50.7%</b>	<b>51.4%</b>
<b>6 or more episodes of binge drinking* in the past two weeks</b>	<b>3.3%</b>	<b>6.1%</b>
<b>Driven a Car While Under the Influence</b>	<b>21.1%</b>	<b>26.5%</b>

\*Binge drinking is defined as five or more drinks at one sitting.

The Core Survey also asks about consequences of drug and alcohol use.

### Consequences of Alcohol and Other Drug Use – Freshman

<b>Performed poorly on a test or important project due to drug use or drinking</b>	<b>17.8%</b>
<b>Driven a car while under the influence</b>	<b>30.0%</b>
<b>Have been taken advantage of sexually under the influence</b>	<b>8.5%</b>
<b>Have taken advantage of someone sexually under the influence</b>	<b>2.6%</b>
<b>Have been hurt or injured due to drugs or alcohol</b>	<b>10.4%</b>
<b>Drank alcohol the last time they had sexual intercourse</b>	<b>18.9%</b>
<b>Got into an argument or fight as result of drinking</b>	<b>24.8%</b>
<b>Done something I later regretted as result of drinking</b>	<b>29.5%</b>

## Overview of Substance Abuse in Texas: Collegiate Level

### Consequences of Alcohol and Other Drug Use – All Students

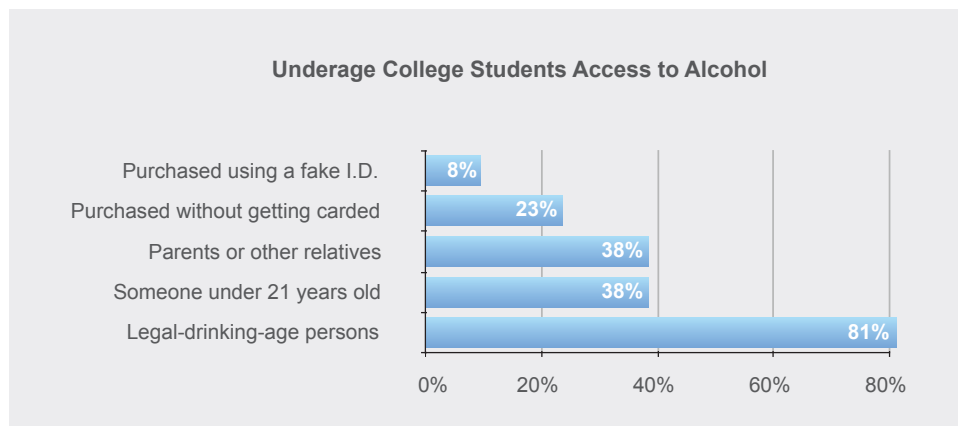
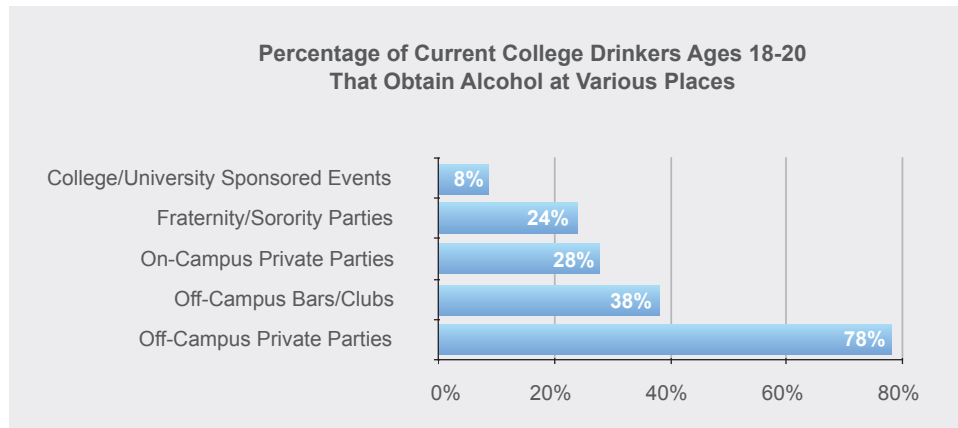
<b>Performed poorly on a test or important project due to drug use or drinking</b>	<b>16.6%</b>
<b>Driven a car while under the influence</b>	<b>23.0%</b>
<b>Have been taken advantage of sexually under the influence</b>	<b>9.3%</b>
<b>Have taken advantage of someone sexually under the influence</b>	<b>3.1%</b>
<b>Have been hurt or injured due to drugs or alcohol</b>	<b>11.1%</b>
<b>Drank alcohol the last time they had sexual intercourse</b>	<b>18.6%</b>
<b>Got into an argument or fight as result of drinking</b>	<b>23.4%</b>
<b>Done something I later regretted as result of drinking</b>	<b>27.2%</b>

Another source of college student data is the Texas College Survey performed in 2005 by the Texas Department of State Health Services in collaboration with the Public Policy Research Institute (PPRI) of Texas A&M University. In this survey of college student the following information regarding alcohol availability was identified.

Social access continues to be the leading source for obtaining alcohol. Among under-age past-year drinkers, 81 percent obtained alcohol from persons of legal-drinking-age. More than one-third get alcohol from parents or other relatives, as well as acquire it from someone less than 21.

The following two charts identify various ways in which college students access alcohol. While addressing social access is critical to reducing underage drinking on campuses, retail access to alcohol remains an issue. Almost one fourth of college students said they bought alcohol without getting carded, and 8 percent purchased alcohol by using a fake I.D.

## Overview of Substance Abuse in Texas: Collegiate Level



Most underage college drinkers were able to obtain alcohol at off-campus private parties. More than one-fourth said they could usually get alcohol without being carded from a local restaurant, off-campus bar/club or gas station.

For more information on college student drinking behaviors and the results of the DSHS survey, please visit [www.dshs.state.tx.us](http://www.dshs.state.tx.us) or see the Texans Standing Tall Report Cards from 2007 and 2008.

## Compliance Checks: Implementing a Solution

**IT IS IMPORTANT THAT PREVENTION** of underage use of alcohol, tobacco, and other drugs is addressed in a comprehensive way, utilizing strategies that are research-based. Underage drinking, tobacco use, and their consequences have a detrimental impact on youth, our state, and our communities. Rooted in the public health model, environmental, community-based prevention strategies act to create change and enforce policies and procedures as well as change attitudes, behaviors, and beliefs (social norms) related to substance use. Environmental strategies, supported by research, are conducted at a community level and are intended for community implementation.

This section of the Report Card will highlight compliance checks, an environmental prevention strategy currently being implemented to address underage drinking and underage tobacco use.

### Compliance Checks to Prevent Underage Drinking

One piece of the puzzle in preventing underage drinking is limiting retail access so that youth do not purchase alcohol from stores. There are several evidence-based environmental prevention strategies to prevent youth access to alcohol via retail outlets. These include retailer education (often referred to as Responsible Beverage Service education) and efforts to increase enforcement such as looking for use of fake identification and conducting compliance checks. Compliance checks, also known as "minor stings", are enforcement operations where a person under the age of 21 attempts to purchase alcohol at an establishment licensed to sell alcohol. The minors are obviously underage; it is not an attempt to "trick" the clerk or server. The youth must provide their current true ID and are not to lie about their age or coerce the clerk or server. If a sale is made to a minor, the officer gives a citation or makes an arrest. The media may be involved to publicize the operation either before it takes place or after the fact.

## Compliance Checks: Implementing a Solution

**TABC Minor Stings, 1990-2009 Fiscal Year**

	1990	1991	No data available 1992-1995	1996	1997	1998	1999	2000	2001
<b>Attempted Buys</b>	758	934		2,256	3,453	3,019	3,131	3,933	2,631
<b>Sales</b>	250	280		632	1,174	604	783	826	500
<b>Refusal Rate</b>	67%	70%		72%	66%	80%	75%	79%	81%
	2002	2003	2004	2005	2006	2007	2008	2009	
<b>Attempted Buys</b>	2,879	3,063	3,019	7,247	7,643	10,977	10,586	9,113	
<b>Sales</b>	518	643	634	1,449	1,273	1,651	1,505	1,180	
<b>Refusal Rate</b>	82%	79%	79%	80%	83%	85%	86%	87%	

The chart above illustrates the number of compliance checks, the number of “buys” – successful attempts by the minor to purchase alcohol – and the compliance rate for each year. Since 1990, compliance rates have increased almost 30%. The Texas Alcoholic Beverage Commission supports conducting compliance checks all over the state.

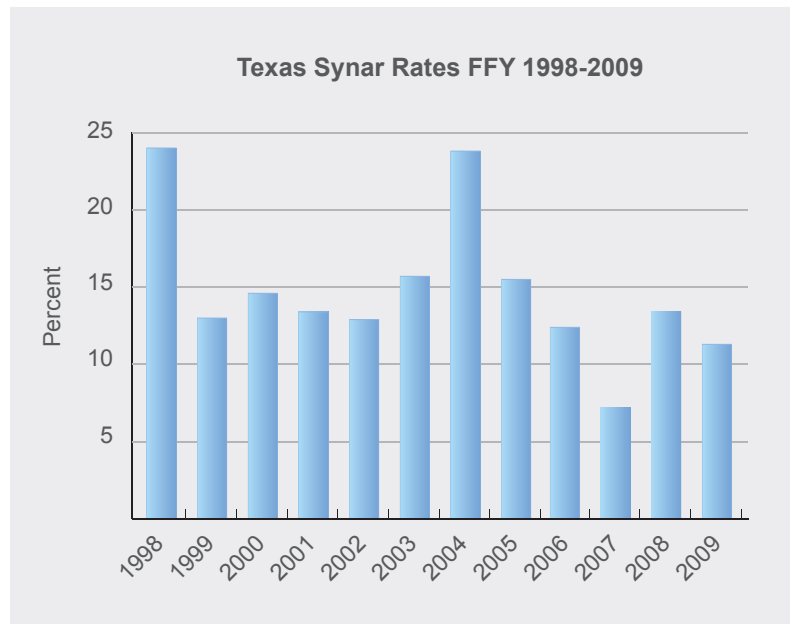
### Federal Synar Inspections

Almost a century after the Texas Legislature passed their first bill regulating sale of tobacco to minors, the federal government became proactive in the battle against underage access to tobacco products. The federal legislation, called the Synar Amendment because it was championed by Oklahoma Congressman Mike Synar, requires states to not only have laws that outlaw tobacco sales to persons under the age of 18, but also to conduct an annual random inspection of tobacco retailers.

In Texas, the Comptroller of Public Accounts, in partnership with local law enforcement agencies, is responsible for compliance with the Synar amendment. Through an interagency agreement with the Comptroller’s office, the Texas Department of State Health Services, Division of Mental Health and Substance Abuse Services, conducts the Synar Survey, analyzes the survey data to determine the state’s rate of illegal sales to minors, and completes the Annual Synar Report to the Substance Abuse and

## Compliance Checks: Implementing a Solution

Mental Health Services Administration. The Texas School Safety Center at Texas State University-San Marcos contracts with DSHS to oversee the Synar Survey field inspections. States that have a sales rate of more than 20 percent (meaning that one in five tobacco retailers inspected sold tobacco to a minor) face stiff sanctions including the potential loss of federal funds for substance abuse prevention and treatment.



The Synar Survey is conducted in 19 counties during the months of June and July and is carried out by trained law enforcement officers. Youth between the ages of 15-17, both male and female, are recruited to assist in conducting the survey. A minor under the escort of a law enforcement officer, will enter a retail store and attempt to purchase a tobacco product. The minor's safety is always a priority, and at no time is the minor out of the officer's view. Parental consent is obtained for youth involvement in the activity.

## Drug Demand Reduction Advisory Committee

The DDRAC Report, reports from the Institute of Medicine, Center for Disease Control, and Surgeons General all establish the need for evidence-based prevention strategies that take a comprehensive community-based approach to reduce youth substance abuse. Such a broad commitment requires multiple culturally appropriate strategies that are chosen based on data-driven assessment of community need to drive the reduction and prevention of substance abuse by young people. This section of the Report Card will address environmental prevention strategies focused on strategies that must be addressed at the state level in Texas.

### DDRAC Report

In 2001, the 77th Texas Legislature passed Senate Bill 558 and thereby established the Drug Demand Reduction Advisory Committee (DDRAC), giving them a mandate to develop a comprehensive statewide strategy and recommendations for the Legislature to reduce drug demand in Texas. The Committee was established and at the beginning of each Legislative Session since the 78th in 2003, they have released a report containing recommendations for the Legislature as well as other information around drug demand related issues in Texas. In January 2009, the DDRAC released the *Texas DDRAC Report to State Leadership – January 2009*. In this report the DDRAC gives recommendations for evidence-based environmental strategies to prevent and reduce use of alcohol, tobacco, and other drugs. Their recommendations include:

- Remove the alcohol exclusion clause for medical expenses from the Uniform Individual Accident and Sickness Policy Provision Law, also known as an alcohol exclusion law.
- Expand the Texas Prescription Program to allow proactive prevention of prescription drug abuse and inform parents of the problems of adolescent misuse of prescription drugs through a public awareness campaign.
- Passage of a statewide public smoking ban to eliminate smoking in all workplaces and public spaces. HB 5 and SB 544 were filed in the 81st Session.
- Mandate comprehensive alcohol and other drug reduction strategies targeting college students.
- Support the recruitment and retention of quality service providers in the field of

## Drug Demand Reduction Advisory Committee

substance abuse prevention and treatment by increasing funds to support wage adjustments.

- Authorize the use of sobriety checkpoints as an optional tool for law enforcement. HB 169 and SB 298 were filed in the 81st Session.
- Establish a comprehensive underage drinking prevention program in Texas, which includes funding through a tax on alcohol/beer sales and mandatory training for all alcohol sellers/servers.
- Allocate additional resources to increase and enhance substance abuse treatment and prevention services to secure a safe, healthy, and productive Texas/Mexico border.
- Mandate all licensed mental health providers and certified educators and those seeking licensure or certification received pre-service training in substance abuse recognition and referral.
- Support efforts to reduce the transmission of diseases that occur through drug use with increased prevention and intervention efforts.

Several of these recommendations were debated during the 81st Session of the Texas Legislature, but none were enacted into law. To learn more about the youth-focused environmental prevention strategies as well as how the Texas Legislature addressed the DDRAC recommendations, please see the rest of this section and the section called "81st Texas Legislative Session."

### Environmental Strategies and the DDRAC Report

The following are evidence-based environmental strategies focused on reducing youth alcohol, tobacco, or other drug use related to legislation filed during the 81st Legislative Session and/or DDRAC recommendations. Each strategy is given a brief overview and is correlated to a DDRAC recommendation, strategy source, and bill number where applicable. Also included is a comparison of how Texas ranks compared to neighboring states and states of similar size. Many of these strategies are discussed in more detail in *Texans Standing Tall's Report Card 2008 on Youth Substance Abuse*.

## Alcohol Exclusion Law (UPPL)

### DDRAC Recommendation #1, IOM Report Recommendation 10-5

The Uniform Accident and Sickness Policy Provision Law (UPPL) was designed as a “model” law by the National Association of Insurance Commissioners (NAIC) in 1947 and can be found in the Texas Insurance Code. This law allows health insurers to deny payment for health costs related to injuries when any type of alcohol or narcotic is found in the patient’s system. It was originally designed to deter drunk driving. However, the unintended consequence has been a reluctance of emergency rooms (ER) to document verifiable evidence of a patient’s toxicology, allowing the hospital to treat the patient and recoup the costs. This has resulted in under reporting of injuries related to alcohol and substance use and missed opportunities for early detection and intervention of alcohol and other substance abuse problems through utilization of screening and brief intervention. In 2006, Ensuring Solutions to Alcohol Problems, a project at The George Washington University Medical Center, conducted an analysis of the costs of unidentified alcohol problems and the savings that would result from screening and brief intervention. **They found that the failure to identify and treat substance use in emergency services may cost Texas businesses and residents \$889 million in health care expenses each year, and Texas could save more than \$175 million per year if ER patients were routinely screened for alcohol and drugs and received treatment when necessary.**

In the 79th and 80th Sessions of the Texas Legislature, Craig Eiland (D-Galveston) filed a bill in the House that would have removed the alcohol exclusion law from the state’s insurance code. No bill related to repealing this law was filed in the 81st Legislature.

## Statewide Smoking Ban

DDRAC Recommendation # 3, CDC Recommendation, Surgeon General Recommendation; HB 5 and SB 544

According to the Surgeon General's Report *The Health Consequences of Involuntary Exposure to Tobacco Smoke*, secondhand tobacco smoke can be just as harmful as firsthand smoke.

Many cities, counties, and states across the nation have established various forms of smoking bans or limitations. The Center for Disease Control has examined the effects of tobacco smoke on all levels of society. Their findings from several systematic reviews of smoking bans and ordinances can be outlined in four points:

1. Studies that evaluated the effect of smoking bans in workplaces observed an average reduction of 74% in exposure to components of secondhand smoke (e.g., nicotine vapor).
2. Smoking bans were more effective in reducing secondhand smoke exposures than were smoking restrictions.
3. Smoking bans were effective in a wide variety of public and private workplaces and healthcare settings. Their effectiveness should extend to most indoor workplaces in the United States.
4. Studies evaluating smoking bans also observed reductions in the amount smoked.

In the 80th Session of the Texas Legislature, two pieces of legislation would have banned smoking in most workplaces and indoor public places in Texas, including restaurants and bars. In the 81st Session two bills were also filed.

## Parental Notification

### DDRAC Recommendation #4, IOM Recommendation 10-3

Parental Notification is a strategy utilized by campuses where campus officials may notify parents whenever they determine that a disciplinary violation has occurred, without conducting a formal disciplinary proceeding or hearing. This strategy is one aspect of a comprehensive approach to prevent and reduce college underage and binge drinking. Per Section 952 of the federal Higher Education Amendments, institutions of higher education (IHE) are allowed (but not required) to notify parents if a student under the age of 21 commits a disciplinary violation involving alcohol or a controlled substance.

Campuses that have implemented parental notification within a comprehensive approach to prevention, have reported additional positive results, including fewer suspensions, less vandalism, higher retention rates, fewer hospitalizations, and increased upper-class student interest in living in residential halls. Parental notification programs have also met the approval of parents.

The Institute of Medicine's *Reducing Underage Drinking A Collective Responsibility* noted that **campuses that use parental notification report reductions of more than one-half in the number of alcohol violations following implementation of parental notification policies.**

According to the Higher Education Center for Alcohol and Other Drug Abuse and Violence Prevention, given recent court decisions, some institutions are using parental notification as a way to both meet their responsibility to provide a safe environment and manage their potential liability for a student's high-risk use of alcohol.

## Evidence-Based Strategies and the DDRAC Report

### Sobriety Checkpoints

#### DDRAC Recommendation # 6, IOM Strategy 9-11; HB 169 and SB 298

Sobriety checkpoints are stops where law enforcement systematically check drivers to assess alcohol impairment. Sobriety checkpoints are not only about identifying and punishing those who break the law; they're also about convincing people not to break the law in the first place. They are most effective when well publicized, increasing the perception of risk of arrest. The Centers for Disease Control has carefully studied the effectiveness of sobriety checkpoints and has determined that they reduce alcohol-related crashes and fatalities by 20 percent, which would save approximately 300 lives and \$300 million a year in Texas. Texas is one of only 12 states that does not conduct sobriety checkpoints.

The U.S. Supreme Court upheld the constitutionality of sobriety checkpoints in 1990, saying that the interest in reducing alcohol-impaired driving was sufficient to justify the brief intrusion of a sobriety checkpoint. In 1994, a State Appeals Court ruled that sobriety checkpoints are unconstitutional in Texas without statewide guidelines. The Texas Legislature must set these guidelines; since 1994, legislation has been filed in every session but no legislation has passed to date.

### Excise Taxes

#### DDRAC Recommendation #7; IOM Recommendation 12-7; CDC Recommendation

Youth are more price sensitive, therefore, raising excise taxes serves as a deterrent to youth alcohol and tobacco consumption. The taxes can also be used as a source of revenue for funding prevention of alcohol and tobacco abuse. According to the American Medical Association, 65% of Americans support raising the alcohol excise tax. While tobacco taxes have been raised more regularly, alcohol excise taxes have not been raised in Texas since 1984. Due to inflation, the real value of the alcohol excise tax and its effectiveness erodes over time if not adjusted regularly. Furthermore, the state does not

## Evidence-Based Strategies and the DDRAC Report

dedicate the revenue raised to go to prevention services. The Task Force on Community Preventive Services recommends increasing the unit price of alcohol by raising taxes based on strong evidence of effectiveness for reducing excessive alcohol consumption and related harms. Public health effects are expected to be proportional to the size of the tax increase.

### How Texas Compares on Environmental Prevention Strategies

STRATEGY	TX	AR	OK	NM	FL	NY
<b>Sobriety Checkpoints</b>	<b>N</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>	<b>Y</b>
<b>UPPL Repeal</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>	<b>N</b>
<b>Statewide Smoking Ban</b>	<b>N</b>	<b>Y<sup>1</sup></b>	<b>N</b>	<b>Y</b>	<b>Y<sup>2</sup></b>	<b>Y</b>

<sup>1</sup> Arkansas bans smoking in restaurants but allow smoking in bars.

<sup>2</sup> Florida has a statewide partial smoking ban.

## Overview of the 81st Session

**THE 81ST SESSION** of the Texas Legislature convened on Jan. 13, 2009, and the final gavel fell on June 1, 2009. The Governor signed 1,656 bills and resolutions, vetoed 38, and allowed 12 to become law without his signature during the Regular Session before Sine Die (session adjournment). A Special Session was held July 1-2, 2009, and two additional bills were passed.

The following section is a snapshot of bills considered during session that either directly or indirectly dealt with youth use of alcohol, tobacco, and other drugs. Among the bills relevant to underage use of alcohol, tobacco, and other drugs were proposals to authorize sobriety checkpoints, implement keg registration, and ban smoking in public places statewide. These issues were discussed, debated, and considered for enactment throughout the Session.

Several of the bills highlighted have been introduced in previous legislative sessions. It is very likely that if they did not become law that they will be introduced again during the 82nd Session which is set to convene on January 11, 2011, at noon.

This information is to be used aid the reader in understanding the public policy process. The bills highlighted are organized in the following manner: Each bill is referred to a committee. The committee listed above a bill, or set of bills, is the one to which it was referred and the individuals are committee members involved in "hearing" the bills. In some cases a bill had a companion for both chambers. In those cases, both House and Senate Committees are listed above the bill and all subsequent bills related to those committees follow. Bills that are referenced on pages 43-47 passed favorably through the legislative process. They are identified by subject matter, bill number, and the committees in which the bill was heard. Please note, that in one case, a bill passed favorably through both chambers but was not signed into law as it was vetoed by the Governor.

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*All information regarding legislation was taken from the Texas Legislature Online at <http://www.capitol.state.tx.us>.*

## Alcohol, Tobacco, & Other Drug Related Legislation

### SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Chair: Sen. Jane Nelson (R-Lewisville)  
 Vice Chair: Sen. Bob Deuell (R-Greenville)  
 Members: Sen. Joan Huffman (R-Houston)  
 Sen. Robert Nichols (R-Jacksonville)  
 Sen. Dan Patrick (R-Houston)  
 Sen. Eliot Shapleigh (D-El Paso)  
 Sen. Carlos Uresti (D-San Antonio)  
 Sen. Royce West (D-Dallas)  
 Sen. Judith Zaffirini (D-Laredo)

### HOUSE COMMITTEE ON STATE AFFAIRS

Chair: Rep. Burt R. Solomons (R-Carrollton)  
 Vice Chair: Rep. Jose Menendez (D-San Antonio)  
 Members: Rep. Byron Cook (R-Corsicana)  
 Rep. Tom Craddick (R-Midland)  
 Rep. David Farabee (D-Wichita Falls)  
 Rep. Pete Gallego (D-Alpine)  
 Rep. Charlie Geren (R-Fort Worth)  
 Rep. Patricia Harless (R-Spring)  
 Rep. Harvey Hilderbran (R-Kerrville)  
 Rep. Delwin Jones (R-Lubbock)  
 Rep. Eddie Lucio III (R-Brownsville)  
 Rep. Diana Maldonado (D-Round Rock)  
 Rep. Rene Oliveira (D-Brownsville)  
 Rep. David Swinford (R-Dumas)  
 Rep. Sylvester Turner (D-Houston)

## Statewide Smoking Ban; Bans on Use of Tobacco Products

**HB 5 and SB 544:** Relating to the elimination of smoking in all workplaces and public places; providing penalties.

**Author HB 5:** Representative Myra Crownover (R-Lake Dallas), Representative Brian McCall (R-Plano), Representative Carol Alvarado (D-Houston), Representative Ralph Sheffield (R-Temple)

**Co-Authors:** There were 76 co-authors.

**Author SB 544:** Senator Rodney Ellis (D-Houston)

## Alcohol, Tobacco, & Other Drug Related Legislation

**Co-Authors:** Senator Juan Carona (R-Dallas), Senator Wendy Davis (D-Ft. Worth), Senator Juan “Chuey” Hinojosa (D-McAllen), Senator Eliot Shapleigh (D-El Paso), Senator Royce West (D-Dallas), Senator Judith Zaffirini (D-Laredo)

**Status of HB 5:** Referred to the House Committee on State Affairs where a public hearing was held on April 4, 2009, where it was left pending in Committee. A Committee substitute bill was introduced on May 8, 2009. No other action was taken.

**Status of SB 544, Senate companion bill to HB 5:** Referred to Senate Health & Human Services Committee where public hearings were held on April 14, 2009 and May 11, 2009. A Committee substitute bill was reported favorably out of Committee and placed on the Intents Calendar on May 14, 2009. No other action was taken.

**Summary:** This legislation would have prohibited smoking in public places, places of employment, and seating areas of outdoor events; exceptions were provided. The Department of State Health Services (DSHS) would have been required to engage in a continuing program to explain and clarify the new guidelines as well as educate employers, owners, and managers on compliance. The bill also established penalties and fines for those not following the provisions of the law.

### Youth Friendly Tobacco-related Products

**HB 90:** Relating to the sale of toy-like lighters in the state; imposing penalties.

**Authors:** Representative Armando Martinez (D-Weslaco), Representative Yvonne Gonzalez Toureilles (D-Beeville), Representative Veronica Gonzales (D-McAllen), Representative Jose Menendez (D-San Antonio), Representative David Leibowitz (D-San Antonio)

**Co-Authors:** Representative Tim Kleinschmidt (R-Lexington), Representative Dora Olivo (D-Rosenberg)

**Status of HB 90:** Reported favorably by the House Committee on State Affairs and voted out of the House and to the Senate on May 2, 2009. Referred to the Senate Committee on State Affairs where testimony was taken on May 22, 2009. The bill was left pending in Committee.

**Summary:** The bill would have prohibited the sale or distribution of promotional lighters that might be attractive to children, such as lighters that look like animals, miniature cars, cameras, as well as those that look like tools, such as tape measures, drills or hammers.

## Alcohol, Tobacco, & Other Drug Related Legislation

### Increasing Age of Purchase for Tobacco Products

**SB 1049:** Relating to the distribution, possession, purchase, consumption, and receipt of tobacco products; providing penalties.

**Author:** Senator Carlos Uresti (D-San Antonio)

**Co-Authors:** Senator John Carona (R-Dallas), Senator Wendy Davis (D-Ft. Worth), Senator Rodney Ellis (D-Houston), Senator Juan "Chuy" Hinojosa (D-McAllen), Senator Jane Nelson (R-Grapevine), Senator Leticia Van de Putte (D-San Antonio), Senator Jeff Wentworth (R-San Antonio)

**Status of SB 1049:** The bill was filed and sent to the Senate Health & Human Services Committee. The Bill passed through the Committee and was voted out of the Senate. It was sent to the House on April 16, 2009, where it was referred to the House State Affairs Committee. No further action was taken.

**Summary:** This bill would have amended the Health and Safety code to increase the legal age for the sale, distribution, possession, purchase, consumption or receipt of cigarettes or tobacco products from 18 to 19 years of age. The Comptroller of Public Accounts estimated that the bill would reduce the use of tobacco products by 18 year-old Texans by 20%.

#### HOUSE COMMITTEE ON PUBLIC HEALTH

**Chair:** Rep. Lois W. Kolkhorst (R-Brenham)

**Vice Chair:** Rep. Elliott Naishtat (D-Austin)

**Members:** Rep. Garnet Coleman (D-Houston)

Rep. John Davis (R-Houston)

Rep. Veronica Gonzales (D-McAllen)

Rep. Chuck Hopson (D-Jacksonville)

Rep. Susan King (R-Abilene)

Rep. Jodie Laubenberg (R-Parker)

Rep. Jim McReynolds (D-Lufkin)

Rep. Vicki Truitt (R-Southlake)

Rep. John Zerwas (R-Richmond)

### Restrictions on Use of Tobacco Products

**HB 3415:** Relating to the regulation of smoking in eating and drinking places in certain areas of the state; providing penalties.

**Author:** Representative Senfronia Thompson (D-Houston)

## Alcohol, Tobacco, & Other Drug Related Legislation

**Status of HB 3415:** Filed on March 11, 2009, it was sent to the House on Public Health Committee on March 19, 2009. No further action was taken.

**Summary:** This bill addressed smoking ordinances on a much more limited basis than proposed in HB 5. HB 3415 did not apply to “cigar bars” or fraternal or veterans organizations. It also applied only to eating or drinking establishments located in a Texas county with a population of more than 400,000.

### HOUSE COMMITTEE ON CORRECTIONS

**Chair:** Rep. Jim McReynolds (D-Lufkin)  
**Vice Chair:** Rep. Jerry Madden (R-Plano)  
**Members:** Rep. Harold V. Dutton, Jr. (D-Houston)  
 Rep. Kirk England (D-Grand Prairie)  
 Rep. Terri Hodge (D-Dallas)  
 Rep. Lois W. Kolkhorst (R-Brenham)  
 Rep. Marisa Marquez (D-El Paso)  
 Rep. Armando Martinez (D-Weslaco)  
 Rep. Sid Miller (R-Stephenville)  
 Rep. Solomon Ortiz, Jr. (D-Corpus Christi)  
 Rep. Ralph Sheffield (R-Temple)

### Restrictions on Use of Tobacco Products

**HB 285:** Relating to the use of tobacco products and cigarettes on property owned, used, or controlled by the Texas Department of Criminal Justice.

**Author:** Representative Terri Hodge (D-Dallas)

**Status of HB 285:** Introduced and referred to the House Committee on Corrections where it was left pending in Committee.

**Summary:** This bill would have adopted rules to permit the possession and use of tobacco products and cigarettes by employees, persons in custody, and visitors to property owned, used, or controlled by the Texas Department of Criminal Justice. Designated smoking areas would have been provided.

### SENATE COMMITTEE ON CRIMINAL JUSTICE

**Chair:** Sen. John Whitmire (D-Houston)  
**Vice Chair:** Sen. Kel Seliger (R-Amarillo)

## Alcohol, Tobacco, & Other Drug Related Legislation

Members: Sen. John Carona (R-Dallas)  
 Sen. Rodney Ellis (D-Houston)  
 Sen. Glenn Hegar (R-Katy)  
 Sen. Juan Hinojosa (D-Mission)  
 Sen. Dan Patrick (R-Houston)

### Restrictions on Use of Tobacco Products

**SB 2327:** Relating to a prohibition on the possession or smoking of a burning tobacco product in certain motor vehicles in which a person younger than 16 is present; providing penalties.

**Author:** Senator Glen Hegar (R-Katy)

**Status of SB 2327:** The bill was filed on March 13, 2009, and referred to the Senate Committee on Criminal Justice on March 31, 2009. No further action was taken.

**Summary:** SB 2327 would have prohibited any adult (18 years of age or older) from smoking any tobacco burning product in a motor vehicle if there was a passenger in the car younger than 16 years of age. The offense would be a misdemeanor punishable by a fine of \$50. A peace officer could not stop or detain a person in a motor vehicle for the sole purpose of determining whether an offense was being committed.

### SENATE COMMITTEE ON FINANCE

Chair: Sen. Steve Ogden (R-Bryan)  
 Vice Chair: Sen. Juan Hinojosa (D-McAllen)  
 Members: Sen. Kip Averitt (R-Waco)  
 Sen. Bob Deuell (R-Greenville)  
 Sen. Robert Duncan (R-Lubbock)  
 Sen. Kevin Eltife (R-Tyler)  
 Sen. Chris Harris (R-Arlington)  
 Sen. Eddie Lucio, Jr. (D-Brownsville)  
 Sen. Jane Nelson (R-Lewisville)  
 Sen. Kel Seliger (R-Amarillo)  
 Sen. Florence Shapiro (R-Plano)  
 Sen. Royce West (D-Dallas)  
 Sen. John Whitmire (D-Houston)  
 Sen. Tommy Williams (R-The Woodlands)  
 Sen. Judith Zaffirini (D-Laredo)

# Alcohol, Tobacco, & Other Drug Related Legislation

## HOUSE COMMITTEE ON WAYS & MEANS

Chair: Rep. Rene Oliveira (D-Brownsville)  
 Vice Chair: Rep. John Otto (R-Dayton)  
 Members: Rep. Dwayne Bohac (R-Houston)  
 Rep. Will Hartnett (R-Dallas)  
 Rep. Harvey Hilderbran (R-Kerrville)  
 Rep. Charlie F. Howard (R-Sugarland)  
 Rep. Phil King (R-Weatherford)  
 Rep. Ken Paxton (R-McKinney)  
 Rep. Aaron Pena (D-Edinburg)  
 Rep. Larry Taylor (R-Friendswood)  
 Rep. Mike Villarreal (D-San Antonio)

## Excise Taxes on Tobacco Products

**HB 1289 and SB 1336:** Relating to the tax imposed on certain Tobacco products.

**Authors HB 1289:** Representative Roland Gutierrez (D-San Antonio), Representative Mike Villarreal (D-San Antonio)

**Author SB 1336:** Senator John Carona (R-Dallas)

### Duplicate Bills:

**HB 1666** – Author, Al Edwards (D-Houston)

**HB 2377** – Author, Sylvester Turner (D-Houston)

**Status of HB 1289; HB 1666; HB 2377:** HB 1289 was referred to House Ways and Means Committee where public testimony was taken on April 15, 2009. The bill was left pending in Committee. HB 1666 was referred to the House Ways and Means Committee, and was left pending. HB 2377 was also referred to the House Ways and Means Committee, and public testimony was heard on April 15, 2009. The bill was left pending in Committee.

**Status of SB 1336, Companion bill to HB 1289:** Introduced in the Senate on March 4, 2009, and referred to the Senate Finance Committee. No further action was taken.

**Summary:** Currently the tax rate for snuff is set at 40% of the manufacturer’s list price. These bills would have created a separate tax rate for snuff at \$1 per ounce net weight as listed by the manufacturer. The bill would have allocated part of the tax proceeds to the Property Tax Relief Fund. Any tax collected in excess of the revenues that would have been collected had the snuff been taxed at the rate of 35.215% of the manufacturer’s list price would have gone to the Property Tax Relief Fund.

## Alcohol, Tobacco, & Other Drug Related Legislation

**HB 3185:** Relating to increasing the tax rates imposed on cigars to fund additional property tax relief.

**Author:** Representative Jim Jackson (R-Carrollton)

**Status of HB 3185:** The bill was introduced and sent to the House Ways and Means Committee. There was public testimony on the bill on April 15, 2009, but it failed to receive an affirmative vote in committee.

**Summary:** The bill would have amended Chapter 155 of the Tax Code, regarding the tax on cigars and other tobacco products. The bill would have increased the tax on cigars weighing three pounds or less per 1,000 cigars to \$70.50 per 1,000, cigars from the current rate of one cent per 10 cigars. The tax on cigars weighing more than three pounds per 1,000 cigars, selling at a factory list price of more than 3.3 cents each and containing a substantial amount of non-tobacco ingredients, would increase to \$70.50 per 1,000 cigars from the current rate of \$15 per 1,000 cigars. Under the provisions of the bill, the portion of taxes collected on the types of cigars affected by the bill would have been allocated to the Property Tax Relief Fund.

**HB 3339:** Relating to the tax on cigarettes.

**Author:** Representative Chuck Hopson (D-Jacksonville)

**Status of HB 3339:** The bill was introduced and sent to the House Ways and Means Committee. There was public testimony on the bill on April 15, 2009. The bill was left pending in Committee.

**Summary:** The bill would have amended the tax code regarding cigarette tax by providing an alternative method of collecting the tax on cigarettes. The collected tax would be the greater of the current \$1.41 tax on a pack of cigarettes or a tax of 55% on the manufacturer's list price. The idea was that with the consumption of cigarettes trending down, you would increase the tax collected by basing it on the increasing manufacturer's price rather than following a per pack tax that is currently in decline. The additional revenue from the cigarette manufacturer's price increases would go to the Property Tax Relief Fund.

### SENATE COMMITTEE ON TRANSPORTATION & HOMELAND SECURITY

Chair: Sen. John Carona (R-Dallas)

## Alcohol, Tobacco, & Other Drug Related Legislation

Vice Chair: Sen. Kirk Watson (D-Austin)  
 Members: Sen. Wendy Davis (D-Fort Worth)  
 Sen. Rodney Ellis (D-Houston)  
 Sen. Joan Huffman (R-Houston)  
 Sen. Robert Nichols (R-Jacksonville)  
 Sen. Florence Shapiro (R-Plano)  
 Sen. Eliot Shapleigh (D-El Paso)  
 Sen. Jeff Wentworth (R-San Antonio)

### HOUSE COMMITTEE ON CRIMINAL JURISPRUDENCE

Chair: Rep. Pete Gallego (D-Alpine)  
 Vice Chair: Rep. Wayne Christian (R-Center)  
 Members: Rep. Allen Fletcher (R-Tomball)  
 Rep. Terri Hodge (D-Dallas)  
 Rep. Carol Kent (D-Dallas)  
 Rep. Robert Miklos (D-Mesquite)  
 Rep. Joseph E. Moody (D-El Paso)  
 Rep. Paula Pierson (D-Arlington)  
 Rep. Debbie Riddle (R-Tomball)  
 Rep. Allen Vaught (D-Dallas)  
 Rep. Hubert Vo (D-Houston)

### Sobriety Checkpoints

**SB 298 and HB 169:** Relating to the authority of the Department of Public Safety (DPS) and local law enforcement agencies to establish a checkpoint on a highway or street to determine whether persons are driving while intoxicated.

**Author SB 298:** Senator Carona (R-Dallas)

**Co-Authors:** Senators Rodney Ellis (D-Houston), Dan Patrick (R-Houston), Royce West (D-Dallas)

**Author HB 169:** Representative Todd Smith (R-Eules)

**Co-Authors:** Representative Byron Cook (R-Corsicana), Representative Joe Crabb (R-Atascocita), Representative Jim Jackson (R-Carrollton), Representative Allen Vaught (D-Dallas), Representative John Zerwas (R-Richmond)

**Status of SB 298:** It was heard in the Senate Committee on Transportation and Homeland Security. Passed the Senate on March 31, with several amendments.

**Status of HB 169, House companion bill to SB 298:** This bill was originally referred to

# Alcohol, Tobacco, & Other Drug Related Legislation

the House Committee on Public Safety, but it was later heard in the House Committee on Criminal Jurisprudence. The bill was left pending in committee.

**Summary:** As proposed, SB 298 amends the Code of Criminal Procedure, by adding Chapter 65 to establish certain guidelines for the use of sobriety checkpoints. Senate panel approved sobriety checkpoints. Rep. Todd Smith informed the House Committee HB 169 would authorize the of DPS in counties with a population of more than 250,000, county sheriffs in a county with a population of 250,000 or more, or a police department in a municipality with a population of 325,000 or more to operate a temporary sobriety checkpoint on a highway or street.

This state leads the nation in alcohol-related traffic fatalities and is one of only 11 states that do not allow law enforcement officials to conduct sobriety checkpoints due to a lack of established guidelines. Traffic safety experts agree that checkpoints are the most effective deterrent against drunk driving.

## HOUSE COMMITTEE ON LICENSING & ADMINISTRATIVE PROCEDURES

- Chair: Rep. Edmund Kuempel (R-Seguin)
- Vice Chair: Rep. Senfronia Thompson (D-Houston)
- Members: Rep. Warren Chisum (R-Pampa)
- Rep. Charlie Geren (R-River Oaks)
- Rep. Roland Gutierrez (D-San Antonio)
- Rep. Mike Hamilton (R-Mauriceville)
- Rep. Delwin Jones (R-Lubbock)
- Rep. Jose Menendez (D-San Antonio)
- Rep. Chente Quintanilla (D-El Paso)

## Keg Registration

**HB 2096:** Relating to requiring the registration of certain containers of alcoholic beverages; providing criminal penalties.

**Author:** Representative Rob Eissler (R-Woodlands)

**Co-Author:** Representative Jim McReynolds (D-Lufkin)

**Status:** Referred to House Committee on Licensing and Administrative Procedures. It was left pending in Committee.

## Alcohol, Tobacco, & Other Drug Related Legislation

**Summary:** This bill would have created a keg registration program in Texas that would attach information regarding the purchaser to a keg of beer. This law would help law enforcement officials to easily identify an individual who has purchased a keg and provided alcohol to a minor in a party setting that is raided by police.

In the 79th Texas Legislature, Rep. Craig Eissler (R) of The Woodlands introduced a bill requiring keg registration labels for kegs being used for off-premise consumption. However, it died in committee. Reintroduced in the 80th Legislature, the keg registration bill made it out of committee but too late for a vote on the House floor. At the time of this writing, 31 states and the District of Columbia have keg registration laws, and Utah bans kegs altogether.

### House Committee on Public Education

**Chair:** Rep. Rob Eissler (R-The Woodlands)  
**Vice Chair:** Rep. Scott Hochberg (D-Houston)  
**Members:** Rep. Alma Allen (D-Houston)  
 Rep. Jimmie Don Aycok (R-Killeen)  
 Rep. Harold V. Dutton, Jr. (D-Houston)  
 Rep. Joe Farias (D-San Antonio)  
 Rep. Jim Jackson (R-Carrollton)  
 Rep. Dora Olivo (D-Rosenberg)  
 Rep. Diane Patrick (R-Arlington)  
 Rep. Mark Shelton (R-Fort Worth)  
 Rep. Randy Weber (R-Pearland)

### Limiting Alcohol Access

**HB 231:** Relating to local regulation of distance requirements for businesses selling alcoholic beverages near a public school.

**Author:** Representative Jim Pitts (R-Waxahatchie)

**Status:** This bill was filed and sent to the House Public Education Committee where it was left pending.

**Summary:** Enactment of this bill would have allowed any school board to petition the commissioners court of the county in which the district is located or the governing board of an incorporated city or town in which the district is located to adopt a 1,000-foot zone to create a buffer between an alcohol establishment and a school. Currently, TABC code stipulates a 300 or 1,000-foot distance based on the size of the city or town.

## Alcohol & Tobacco Related Bills That Passed

### How A Bill Becomes a Law

A Representative or Senator writes and proposes a bill that is then referred to a relevant committee and, if approved (voted out of committee), it is scheduled for floor debate. If the members vote in favor of the bill, it is sent to the other chamber, where a relevant committee will consider it. If approved, it is scheduled for a floor vote. If the two chambers disagree, a Conference Committee is held. Once both chambers approve a bill, it is sent to the Governor to be signed into law or vetoed.

### Public Intoxication by a Child House Bill 558

**Author:** Representative Ane E. Hernandez (D-Houston)

**Sponsor:** Senator Rodney Ellis (D-Houston)

- **House Criminal Jurisprudence Committee & Senate Criminal Justice Committee**
- **Passed both the House and the Senate unanimously**

House Bill 558 amends provisions of the Code of Criminal Procedure, Family Code, and Penal Code to include a public intoxication offense committed by a child within the jurisdiction of a justice or municipal court.

Previously, a child could be prosecuted in justice and municipal courts for purchasing, possessing, or consuming an alcoholic beverage. A child could also be prosecuted for operating a motor vehicle while having any detectable amount of alcohol in his or her system. But, a child could not be prosecuted in those courts for appearing in a public place while intoxicated. If a public intoxication offense was included in the jurisdiction of these courts, then it increases the likelihood that children committing these offenses would be subject to rehabilitation services.

In HB 558 a child is defined as a person who is 10 years of age or older and under 17 years of age or who is 17 years of age or older and under 18 years of age.

HB 558 amends current law relating to law enforcement and judicial procedures for, and the prosecution of, children who engage in conduct constituting public intoxication. The bill authorizes a law enforcement officer to issue a field release citation in place of taking

## Alcohol & Tobacco Related Bills That Passed

a child into custody for public intoxication only if the officer releases the child to the child's parent, guardian, custodian, or other responsible adult.

### Local Option Elections to Prohibit/Allow Alcohol Sales House Bill 4498

**Author:** Representative Mike Hamilton (D-Mauriceville)

**Sponsor:** Senator Robert Nichols (R-Jacksonville)

- **House Licensing and Administrative Procedures Committee & Senate Business and Commerce Committee**
- **Unanimously passed the House and the Senate with a Senate floor amendment**

Previous law prohibited a political subdivision from voting to prohibit a previously legalized classification of alcoholic beverage unless the sale of all classifications of alcoholic beverages was legal in that political subdivision. House Bill 4498 amends the Texas Alcoholic Beverage Code to authorize a jurisdiction to hold a local option election to prohibit the sale of any classification of alcoholic beverages that previously has been legalized in that area. Local option elections ensure that citizens of a jurisdiction have the right to authorize or prohibit the sale, provision, or service of alcoholic beverages in the jurisdiction. Many jurisdictions have various levels of sale, provisions, or service of alcohol.

### Funding Breath Alcohol Testing Senate Bill 333

**Author:** Senator John Carona (R-Dallas)

**Sponsor:** Representative Jim Jackson (R-Carrollton)

- **Senate Transportation and Homeland Security Committee & House Criminal Jurisprudence Committee**
- **Bill passed unanimously in the House and the Senate**

Senate Bill 333 amends the Code of Criminal Procedure to require a certified breath alcohol testing program, and to retain \$22.50 of each court cost to defray the costs of maintaining and supporting the program.

## Alcohol & Tobacco Related Bills That Passed

As proposed, SB 333 authorizes county courts that maintain their own certified breath alcohol testing programs to retain \$22.50 of the driving while intoxicated (DWI) court case fees and fines to help defray costs. Previously, no amount of DWI court fees and fines were retained by county courts to account for the costs of maintaining a breath alcohol testing program. SB 333 would restore needed funding to counties that manage their own certified breath alcohol testing programs without the assistance of Department of Public Safety (DPS) technical supervisors. The bill would correct an apparent oversight by the 78th Legislature in 2003, which repealed and consolidated the fee provisions of Code of Criminal Procedure.

### Minors Operating a Watercraft Under the Influence of Alcohol Senate Bill 328

**Author:** Senator John Carona (R-Dallas)

**Sponsor:** Representative Larry Phillips (R-Sherman)

- **Senate Transportation and Homeland Security Committee & House Criminal Jurisprudence Committee**
- **Passed both the House and Senate unanimously**

Senate Bill 328 adds the Nicole “Lilly” Lalime Act. The bill re-designates the offense of driving under the influence of alcohol by a minor as driving or operating a watercraft under the influence of alcohol by a minor, expands the conditions that constitute that offense, and includes an offense prohibiting the operation of a watercraft within the definition of “alcohol-related or drug-related enforcement contact.” The bill authorizes a search warrant to collect a blood specimen from a person who is arrested for a certain intoxication or alcohol offense and refuses to submit to a breath or blood alcohol test.

Individuals operating a watercraft who refuse to submit to a breath or blood alcohol test are subject to an administrative license revocation. If the person operating the watercraft submits to a breath or blood alcohol test current statute does not provide for an administrative license revocation.

## Alcohol & Tobacco Related Bills That Passed

### Health Curriculum on Alcohol Poisoning Senate Bill 1344

**Author:** Senator Kirk Watson (D-Austin), et. al

**Sponsor:** Representative Rob Eissler (R-Woodlands)

- **Senate Education Committee & House Public Education**
- **Passed the House and the Senate unanimously**

Senate Bill 1344 amends the Education Code to require the State Board of Education, in adopting the essential knowledge and skills for the required health curriculum, to adopt essential knowledge and skills that address the dangers, causes, consequences, signs, symptoms, and treatment of binge drinking and alcohol poisoning. The bill makes its provisions applicable beginning with the 2009-2010 school year.

Since 2007, there have been several cases of unintended deaths on college campuses due to alcohol poisoning. Generally, those who die from alcohol poisoning are freshmen or new fraternity pledges. While college campuses may provide alcohol use education, this bill is a tool to fill a gap in middle and high school curriculum when students are first exposed to and forming their perceptions of alcohol culture.

### Promotion and Marketing of Alcoholic Beverages Senate Bill 2558

**Author:** Senator Mario Gallegos, Jr. (D-Houston)

- **Senate Business and Commerce & House Licensing and Administrative Procedures**
- **Passed by both Senate and House**
- **Vetoed by the Governor**

This bill is designed to market and promote alcoholic beverages in “product instruction events”:

- Held at the premises of a retailer holding a license or permit to sell alcoholic beverages for on-premises or off-premises consumption.
- Held on a brand-identified promotional vehicle that is owned, rented, or leased by the license or permit holder conducting the event while the vehicle is located on the premises of a retailer.

## Alcohol & Tobacco Related Bills That Passed

- Provides that a product instruction event is required to be conducted during normal business hours, and may not exceed four hours in length.
- Authorizes the license or permit holder conducting a product instruction event to open, touch, pour, and serve only malt beverages that the license or permit holder manufactures or is authorized to distribute. Requires the license or permit holder conducting the product instruction event to purchase all malt beverages used in the event from the retailer. Prohibits the retailer from charging the license or permit holder more than the price the retailer charges a consumer for the beverages.
- Authorizes a product instruction event to be prearranged with and preannounced to a retailer. Prohibits a product instruction event from being preannounced to a consumer.
- Authorizes a retailer to host not more than two product instruction events each calendar year.