

## SUBCHAPTER B—GUIDELINES

### PARTS 1204–1206 [RESERVED]

### PART 1208—NATIONAL MINIMUM DRINKING AGE

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AUTHORITY: 23 U.S.C. 158; delegation of authority at 49 CFR 1.48 and 1.50.

SOURCE: 51 FR 10380, Mar. 26, 1986, unless otherwise noted.

#### § 1208.1 Scope.

This part prescribes the requirements necessary to implement 23 U.S.C. 158, which establishes the National Minimum Drinking Age.

#### § 1208.2 Purpose.

The purpose of this part is to clarify the provisions which a State must have incorporated into its laws in order to prevent the withholding of Federal-aid highway funds for noncompliance with the National Minimum Drinking Age.

#### § 1208.3 Definitions.

As used in this part:

*Alcoholic beverage* means beer, distilled spirits and wine containing one-half of one percent or more of alcohol by volume. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part or from any substitute therefor. Distilled spirits include alcohol, ethanol or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

*Public possession* means the possession of any alcoholic beverage for any reason, including consumption on any street or highway or in any public place or in any place open to the public (including a club which is *de facto* open to the public). The term does not apply

to the possession of alcohol for an established religious purpose; when accompanied by a parent, spouse or legal guardian age 21 or older; for medical purposes when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital or medical institution; in private clubs or establishments; or to the sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful employment of a person under the age of twenty-one years by a duly licensed manufacturer, wholesaler, or retailer of alcoholic beverages.

*Purchase* means to acquire by the payment of money or other consideration.

#### § 1208.4 Adoption of National Minimum Drinking Age.

The Secretary shall withhold ten percent of the amount required to be apportioned to any State under each of §§ 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of title 23 U.S.C. on the first day of each fiscal year in which the purchase or public possession in such State of any alcoholic beverage by a person who is less than twenty-one years of age is lawful.

[60 FR 66076, Dec. 21, 1995]

#### § 1208.5 Unavailability of withheld funds.

Funds withheld under § 1208.4 from apportionment to any State will not be available for apportionment to the State.

[60 FR 66076, Dec. 21, 1995]

#### § 1208.6 Procedures affecting States in noncompliance.

(a) Every fiscal year, each State determined to be in noncompliance with the National Minimum Drinking Age, based on NHTSA's and FHWA's preliminary review of its statutes for compliance or non-compliance, will be advised of the funds expected to be withheld under § 1208.4 from apportionment, as part of the advance notice of apportionments required under 23 U.S.C. 104(e), normally not later than ninety days prior to final apportionment.