



Fake IDs In America:

Challenges of Identification and The Critical Need for Training

By Susan Dworak, CEO
Real Identities, LLC



FAKE IDs IN AMERICA: CHALLENGES OF IDENTIFICATION AND THE CRITICAL NEED FOR TRAINING

By Susan Dworak, CEO
Real Identities, LLC

EXECUTIVE SUMMARY

Fake IDs pose serious problems to the people and companies who sell and serve alcohol, and also to communities and society as a whole. Fake IDs are easy to buy and easy to create, and the fake IDs flooding the market today are so sophisticated that they are fooling high tech scanners. Consequently, it is harder to control access to alcohol because the challenges of identification and age confirmation have become increasingly difficult. This paper will explain how and why.

The goal of checking IDs for the sale and service of alcohol is to confirm age to prevent underage access and to stop the legal, financial and social consequences resulting from underage drinking. This is a huge task given the large and increasing numbers of fake IDs on the market and the ease with which they can be obtained. Quality fake IDs are so similar to real IDs it's hard for those who check ID ("gatekeepers") to tell the difference if they lack proper training.

The solutions are detailed training for the persons checking ID ("gatekeepers"), stiffer penalties that deter the use of fake IDs thereby halting the demand, and a cultural shift in the way we think as a nation about underage drinking and fake IDs.

Consequences of Fake IDs

The consequences of underage drinking are surprising in their range and magnitude, affecting not only those underage, but families, businesses, and society. A fake ID can be a very heavy pebble dropped into society's pond, causing serious and broad economic and social costs. Just one use of one fake ID can result in life-altering consequences for many people.

In the alcohol industry, fake IDs have caused numerous suspensions and revocations of liquor licenses shuttering doors of long-time and newly opened establishments alike. Everyone directly and indirectly involved with these shuttered businesses is affected, including owners, investors, managers, employees, suppliers, vendors, delivery companies, and the list goes on.

Fake IDs have also caused untold expense and heartache for society in general. The Las Vegas shooter reportedly checked into the hotel with a fake ID (as he had allegedly done at other hotels during other music festivals), and, according to the government, the 9/11 terrorists used a series of fake IDs to plan for and carry out their acts (the federal government responded in part by enacting the Real ID Act).¹

¹ Department of Homeland Security. (2018). Retrieved from <https://www.dhs.gov/xlibrary/assets/real-id-act-text.pdf>

Economic Costs of Fake IDs

As it relates to the sale and service of alcohol, fake IDs can carry severe financial consequences, the question is just how much. Economic costs associated with alcohol problems in the US total more than \$175 billion annually.² Underage drinking costs the US almost \$57 billion annually, including \$14.6 billion in lost work costs, \$5.4 billion in medical costs, and \$36.9 billion in pain and suffering costs.³ However, we do not know exactly how much of those costs is directly or indirectly caused by the use of fake IDs by underage drinkers' access to alcohol.

We do know that many of the financial consequences are borne by public sources, including federal, state, and local governments, burdening already stressed budgets. Considering the involvement of all federal, state, and local agencies in the regulation and enforcement of alcohol laws, the burden on government resources is untold.

Extensive statistics on underage drinking are available, but the numbers do not include specific data on the use of fake IDs to obtain the alcohol.⁴ We can nonetheless correctly say that the individual costs to people and businesses involved are far too high and the aggregate costs to the nation are far too high, especially since they are preventable.

Underage Drinking and Fake IDs

Underage drinking is deeply embedded in American culture. Many underage drinkers use fake IDs to access alcohol, and they're drinking a lot of it. People from 12 to 20 years old drink 11% of all alcohol consumed in the US.⁵ Retailers face a conflict of interest in profiting from significant sales versus enforcing the law, and some admit to making the sale without checking ID or by accepting a fake ID out of sheer economic need. Our media is filled with alcohol promotion that intoxicates younger generations. Impressionable kids and teens are regularly exposed to alcohol advertising and an onslaught of alcohol culture in songs, movies, websites, and social media. It's not surprising, then, that some 60% of college students drink alcohol.⁶

² Rice, D. (2003, March 31). Economic costs of substance abuse, 1995. Wiley Online Library. Retrieved from <https://onlinelibrary.wiley.com/doi/abs/10.1046/j.1525-1381.1999.09254.x>

³ Pacific Institute for Research and Evaluation. (2011, September). Law Enforcement Guide to False Identification and Illegal ID Use. Retrieved from <http://www.pire.org/documents/UDETC/operational-guides/GuideToFalseIdentification.pdf>

⁴ Pacific Institute for Research and Evaluation. (2015, March). Underage Drinking in the United States. Retrieved from <http://www.pire.org/documents/UDETC/cost-sheets/US.pdf>

⁵ Centers for Disease Control and Prevention. (2018, May 10). Fact Sheets - Underage Drinking. Retrieved from <https://www.cdc.gov/alcohol/fact-sheets/underage-drinking.htm>

⁶ National Institute of Alcohol Abuse and Alcoholism. (2015, December). College Drinking. Retrieved from <https://pubs.niaaa.nih.gov/publications/CollegeFactSheet/CollegeFactSheet.pdf>

Current penalties are still not a deterrent to some underage individuals. Regulations and penalties vary widely by state, including fines, criminal sanctions, jail time, suspension or revocation of liquor licenses, and loss or suspension of a driver license. Universally stiffer sanctions for actions related to fake IDs may prove effective.

REAL IDs

To understand fake IDs, you must first understand real IDs. There are 56 jurisdictions in the US that issue government driver licenses and non-driver ID cards – 50 states, Washington, DC, and the US territories. At any given time, each jurisdiction has a number of valid versions of ID in circulation, resulting in hundreds of currently valid versions of IDs in the US. Complicating matters for those who check ID, new versions are added and current versions are updated periodically.

The American Association of Motor Vehicle Administrators (AAMVA) creates standards for the design of driver licenses and ID cards to improve the security of the cards and the "interoperability among cards issued by all North American jurisdictions."⁷ States spend millions of dollars on increasingly complex security features to make it more difficult to counterfeit IDs.

Some of the security features on government-issued IDs considered the most difficult to counterfeit are visual and tactile features meant for inspection by sight and touch. If gatekeepers fail to use visual perception and manual dexterity to confirm these features, the expertise of the AAMVA and the expenditure by DMVs are squandered. The problem is that many (in fact, most) gatekeepers don't know what security features to look for and feel on IDs.

Security Features on Real IDs

All US driver licenses contain three different kinds of security features: overt; covert; and forensic. Overt features can be seen with the eyes and felt with the hands. Covert features can be seen with the use of simple tools, such as magnifiers, flashlights and UV lights. Forensic features are revealed with special high-tech tools typically used by law enforcement and government agencies given their expense.

When people are trained to properly and thoroughly check IDs, they can tell the difference between real and forged overt and covert security features. By spotting fake IDs they can deny access to alcohol by people who are underage and prevent the potentially tragic resulting consequences.

FAKE IDs

Fake IDs come in many forms, including borrowed and stolen real IDs, newly created fake IDs, and altered (forged) real IDs. Even if the ID is real, if it does not belong to the person presenting it, if the machine-readable data on that ID is incorrect, or if it has been altered, it's a fake ID.

⁷ American Association of Motor Vehicle Administrators. (2018). DL/ID Standards. Retrieved from www.aamva.org/dl-id-card-design-standard/

Fake IDs: Borrowed and Stolen Real IDs

Borrowed and stolen IDs are reportedly among the most common fake IDs used. Scanners won't catch this kind of fake, because it's a real government-issued ID. This is one reason trained gatekeepers are critical to the ID checking process. Human gatekeepers can not only see and feel security features, but they can observe and assess behavioral nuances often associated with the use of a fake ID. They also have the innate ability to conduct some level of facial recognition to confirm identity, matching the person presenting the ID to the photo on the ID.

Fake IDs: Purchased Fake IDs

Fake IDs are increasingly easy to buy. They are easily bought in person from (typically) dorm room operations or "novelty" ID shops in certain areas of town. They are also easily bought online from international and domestic fake ID operations without a trace of the transaction or payment. Access to fake ID sites can be done anonymously and is often done on a disposable device, called a "burner" laptop or phone. Purchases are made anonymously using untraceable cryptocurrency such as Bitcoin. Illegal operations flood markets with fake IDs, and that poses serious threats to companies and people who check ID to control access to alcohol.

Selling fake IDs is lucrative for criminals and those who abet criminals, including college students and others who bundle sales to make a commission. High-quality IDs sell for \$50 to over \$200, often with a duplicate in case one is confiscated. The annual income from online sales can exceed \$1,000,000 for a single operator, and some fake ID sites report receiving over 10,000 inquiries on a single day.⁸ Online fake ID manufacturers compete for business, bragging about producing the perfect counterfeit hologram or producing IDs that easily pass TSA and law enforcement scanners. Manufacturers even have online consumer ratings. People who forge, sell, and use fake IDs have seemingly no concern for those who may suffer the life-altering consequences of their actions.

Online searches for terms like "fake ID" result in pages of countless manufacturers. Law enforcement acknowledges that catching fake ID manufacturers, and especially those outside the US, is like a game of "whack-a-mole," because when one disappears, another pops up. Some operate under multiple names. When law enforcement shuts them down under one name, they seamlessly continue operations under another. The reality is that bad guys are evading the good guys.

If there is little or no jurisdiction over the international operations and if it's too hard to stop offshore and US production, the answer may lie in focusing on halting the demand. If the penalties for forging, sale, and use of fake IDs are stiff enough to override the benefit, underage drinkers will reconsider and the demand will be stemmed accordingly.

⁸ United States Senate, 106th Congress, 2nd Session, May 19, 2000. Hearing before the Permanent Subcommittee on Investigations on the Committee of Governmental Affairs, Statement of Special Agent David C. Myers, Identification Fraud Coordinator, Florida Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, Fraudulent Identification Unit.

Stopping the demand for fake IDs carries the added benefit of protecting teens. To obtain a fake ID some teens naively give up their Personally Identifiable Information (PII), which can subsequently be used for criminal activity, including identity theft.

Fake IDs: Altered Real IDs

Another form of fake ID is a real ID that has been altered. The most common alterations include editing barcodes and magnetic stripes on the back of an ID and lifting or removing laminates to replace or add photos, holograms, artwork, data, and more.

Current IDs are typically made of simple materials – plastic and metal - both easy to alter. ID card bases, including those with a magnetic stripe on the reverse, if desired, are available online in bulk. In fact, everything needed to make a fake ID is commercially available, as are detailed instructions and videos for altering existing IDs and creating new IDs.

ID scanners won't always catch these forged security features, but a trained eye and hand can catch a fake if the gatekeeper knows what to feel and see. That is the key phrase: if they know. However, current training for checking ID is lacking in depth and detail.

CURRENT SOLUTIONS FOR CHECKING ID

There are currently two main solutions for gatekeepers when it comes to checking ID: training and ID scanners. Neither is fully adequate for catching the sophisticated fake IDs currently on the market. Expectations for the ID checking process exceed gatekeepers' capabilities because the solutions available do not always contain the information or technology needed to do the job.

Training: Mandates

Less than half of all states mandate training for anyone who sells and serves alcohol. Less than 20 of the 50 states mandate a responsible vendor program and nearly half of those states do not mention ID checking as part of the required curriculum.⁹ The states that mandate ID checking often fall short of providing the most up-to-date content required to check IDs and to spot fakes, given the speed at which fakes are flooding the market.

Training: Instruction

Alcohol server training programs are available online, but the ID training content lacks the depth and detail required to properly and thoroughly check IDs and spot fakes. Typically, these programs are 2-4 hours in length, yet on average only 5-20 minutes of content covers IDs, and that content is too vague. The trainings typically discuss obvious steps in checking ID such as confirming the birthdate and expiration date, but when it comes to security features, the training is lacking. For example, content might include only one or two images of holograms, and that is not enough information to distinguish real from fake holograms.

⁹ Alcohol and Tobacco Tax and Trade Bureau. (2018). TTB Regulated Industries. Retrieved from <https://www.ttb.gov/>

Also, trainings take place rather infrequently. It's suggested by some states that training be renewed "every few years." This is not frequent enough to keep up with changes to government-issued IDs, changes in technology, and changes in the level of sophistication of fake IDs. Gatekeepers need far more updated training with far more depth and detail.

Training: ID Checking Books

ID checking books typically used in the alcohol industry are small paperbacks organized by state or jurisdiction that contain photos of a few IDs together with concise sentences describing a few security features. The books are considered a resource for checking IDs, but unfortunately most suffer from problems that can render them ineffectual. Though the books are updated fairly regularly, the information can become outdated before the next publication. Also, the books do not always cover all current versions of IDs. Consequently, much like online and live trainings, some books lack the depth and detail that enable gatekeepers to differentiate between a real ID and a fake ID.

Training: ID Scanners

In our drive to be more automated and more high-tech, scanners are sometimes the sole method used to check ID, replacing people in crucial gatekeeping positions. By using current scanners to check IDs we are often mistakenly relying on machines to confirm age and identity. Human visual perception and manual dexterity are crucial to the ID checking process to confirm age and prevent underage access to alcohol.

Scanners can create a false sense of security for the person scanning the ID and also for the ID holder. The person scanning the ID may believe that the machine can always catch a fake ID. The ID holder may believe that their PII, including name, address, signature, license number, photo, biometric data, and more, is safe, when in many cases it is not. Also, gatekeepers and companies may not fully understand their exposure to liability in regard to strict privacy laws when swiping, viewing, capturing, and securing PII.

To understand why scanners do not always catch fake IDs, it's important to understand the technology. ID scanners come in two forms: machines and apps. Machines include dedicated, purpose-built devices such as hand-helds or desktop models and Point of Sale (POS) systems with built-in or add-on ID scanners. Machines require both hardware and software. Scanning apps are downloaded onto devices such as smartphones. Both have limitations based upon what they can 'see' or 'read' on IDs and whether they can actually 'verify' the data or 'authenticate' the ID.

Scanner Limitation: Outdated Technology

ID scanners and apps read barcodes and magnetic stripes, both called Machine Readable Technology (MRT). Both were developed over half a century ago and both are effortlessly deciphered and forged with online searches and simple, affordable tools like encoders. Years ago, a scanner may have been an effective means for checking ID, but no longer. With the exponential growth of technology and accessibility of affordable electronic tools and materials, it's easy to forge a real ID or create a fake ID with scannable MRT and other features.

For example, scanners cannot always tell if the barcode is real or if the data on the barcode is real. Barcodes are easy to make and easy to alter. Bad actors combine real names, addresses, birthdates, and biodata found online together with real driver license numbers, easily created on

websites that mimic algorithms DMVs use to generate IDs. Certain websites automatically format data in the precise font, size, and color for the front of the ID and also barcode lines and squares for the back of the ID, all arranged for printing or engraving in the precise and correct location on IDs. Realistic templates with artwork, patterning, microprint, and more for all US driver licenses and ID cards are available online, so putting it together to create a very realistic fake ID is relatively easy. Criminals know which states are easier than others to forge and exploit vulnerabilities.

Scanner Limitation: Magnetic Stripes

Small, inexpensive encoders available online can alter magnetic stripes on IDs without detection. All it takes is swiping the real ID through the encoder to read the data on the magnetic stripe, changing a digit or two of the birth year, and swiping the ID again to write (re-encode) a fake birthdate onto a real ID.

Underage individuals use encoders to change birthdates before and after entering bars and stores. One encoder can write and rewrite countless IDs in minutes, no matter the type of magnetic stripe. A second swipe and a few keystrokes reverts the ID back to the original birthdate to avoid detection by law enforcement.

Also, some scanners are outdated because the features they were designed to read are no longer present on many IDs. More than half of the IDs issued by state governments no longer have magnetic stripes or linear barcodes. ID standards change, meaning other MRT could be removed or added in the future, so it's difficult to design a scanner that will consistently read all possible variations of IDs, present and future.

Scanner Limitation: Not 'Authenticating' or 'Validating' IDs

Scanners are used for convenience, but there is risk in missing fake IDs. A machine can *read* the MRT on an ID, but it cannot always *authenticate* or *validate* an ID as some scanners claim to do. Law enforcement and other government officials can validate an ID by running it against a DMV database, but altered IDs can easily fool private company scanners when those devices lack access to current and complete data.

The capabilities and limitations of scanner hardware and software should be transparent to consumers. When a scanner claims, for example, "to check the ID against a proprietary database of public sources, including DMV data," users should request full disclosure of the sources and accuracy of that data (i.e., if the scanner is not checking against a live DMV database, but rather a subset of limited publicly available data that may not be comprehensive, accurate or updated, that should be disclosed). Gatekeepers, consumers, and regulators are entitled to full disclosure and transparency to enable them to make informed decisions on the efficacy and reliance – or non-reliance – on a device.

DMV Data: Outdated

If a scanner company's "proprietary database" includes data purchased from state DMVs and if that data is not refreshed regularly, the data is outdated and lacks integrity. For example, when someone obtains a new ID in one state without surrendering their old ID, the old ID can be loaned or sold to someone else. The new state DMV informs the former state DMV that the ID is no longer valid, but a scanner lacking current or live DMV data would not detect this.

DMV Data: Accuracy

Some scanners claim to ‘verify’ data such as a license number or name, but it may verify only that such a number or name exists in a DMV database and not that it corresponds to that particular ID or to the person presenting it. Bad actors claim that it’s fairly easy to “game the system” when it comes to DMV data by using a common first and last name or a computer-generated real license or ID number so the fake ID passes the “database check.”

Scanner Issue: Malfunction

There are also practical realities with machines. What if there is a bug in the software or if the software is not updated? What if the internet goes down or the connection is lost? What about after-market modifications of the scanner? What if the machine fails when the optics are misaligned, the lens is scratched or cracked, the electronics go bad, when liquid is spilled on the machine, when the power surges, or when the batteries die? Machines can malfunction for a number of reasons so relying on a scanner alone to verify authenticity and confirm age is risky.

Scanner Issue: Social Media

Underage persons use social media to post which brand of fake IDs pass which brand of scanner and which bars and stores are using those scanners (e.g., “My fake ID from X.com passes the Y scanner at Z store every time. Go after the 5:00 PM shift change because the new clerk never checks ID.”). Social media sites are trying to combat this issue. Facebook removed references to sales of fake IDs and Reddit removed its fake ID subReddit page. However, posts simply move to other social media platforms or pages are re-created.

Scanner Issue: Privacy and Identity Theft

Companies, their gatekeepers, and their customers don’t read the fine print, such as terms, conditions, and privacy policies that come with scanners and scanning apps, so many at-risk parties don’t understand their exposure to liability. The law is stepping in to protect people. Government agencies are increasing accountability and the enforcement of laws related to PII. The use of scanners and scanning apps – and the protection of data in general - is falling under greater legal scrutiny.

Scanners can increase the potential for identity theft if people are not properly informed of risks. For example, many scanners automatically create customer contact lists or databases, which may be convenient for the company, but collecting PII creates disclosure, consent, and security issues by way of access, ownership, storage, security, and licensing of data, among other things.

Millions of US adults frequent bars and nightclubs on a weekly basis.¹⁰ Most are unaware of the risk scanners may pose to the loss of PII and identity theft. By scanning an ID, all or some of the data on that ID can be stored indefinitely on unsecured devices or databases, meaning it’s

¹⁰ Erickson, P., (2017, October). Americans say public safety first for alcohol regulation! Public Action Management, Inc. Retrieved from <http://campaign.r20.constantcontact.com/render?m=1113321512460&ca=da95d290-a1a3-4e9c-b2dc-1d9cb13a699e>

vulnerable. When data is stored or transferred, via Wi-Fi for example, it is also vulnerable because it can be viewed or captured. Even if the data is encrypted, it can be captured in compromised routers and switches.

Further, free scanning apps are available to anyone, meaning anyone can download an app and use the app to scan an ID. When companies use scanning apps to confirm age, any bouncer, any bartender, any clerk, any temporary employee, any stand-in – anyone – can view, capture, extract, store, or transfer PII from every scanned ID on and from their personal cell phone. This is risky.

Privacy: Legal Matters

Companies, their gatekeepers, and their customers don't fully understand scanner hardware, software and scanning apps. The law is stepping in to protect people. The use of scanners and scanning apps - and the protection of data in general - is falling under greater legal scrutiny in many jurisdictions. Government agencies are increasing accountability when it comes to the use of scanners and the enforcement of laws related to PII. Using scanners or apps to swipe, view, capture, extract, store, transfer, and secure PII involves tremendous risk of violating privacy, cybersecurity, identity theft, and other laws.

Scanner Issue: No "Training"

We must consider the extent to which we allow convenience to play a role in regulation or enforcement in the protection of society. Simply scanning or swiping an ID is convenient, but it's not the way to control access to alcohol. Some venues that use scanners purport to have "trained" staff to check ID, but swiping a card through a slot takes little or no "training." Regardless, swiping can't make a difference if the scanner doesn't capture a fake ID.

Simply scanning an ID is not an adequate defense to a sale to minor violation. If we allow this "easy out" as an affirmative defense, licensees may buy and use scanners not to prevent underage sales but to avoid prosecution should such a sale occur. The price of a scanner will be a "get out of jail free" card, of sorts, saving the loss of a liquor license and avoiding court proceedings and legal fees.

Scanners are not infallible and they are not a panacea to spotting fake IDs. A human gatekeeper must be empowered with proper training and held liable for the ultimate decision to sell or serve a controlled product.

Scanners: Mandating Use of Machines to Check ID

Some jurisdictions mandate the use of scanners to check IDs, which may mean entire communities are relying on machines to confirm age and identity. By mandating the use of scanners without proper disclosures, knowledge, and training, we're requiring people to put themselves at risk for financial and legal liability. Also, regulations that require the use of expensive scanners may discriminate against those who cannot afford them. It's a digital divide that may punish and put at risk those with limited resources.

THE FUTURE OF IDS

The plastic driver license card is the number one form of ID for most Americans, at least for now. There are 327 million people in the US¹¹ and over 210 million IDs in circulation.¹² With that many driver licenses in circulation, it will be years before the plastic driver license card is phased out. Eventually the card will meet its digital destiny and take a number of different electronic forms. We can empower gatekeepers with a new set of ID checking standards to support them in their critical gatekeeping position, and this includes keeping pace with advances in IDs in their current (tangible) and future (digital) states.

The Future of IDs: Mobile IDs

Mobile IDs are driver licenses in digital format viewed on devices like cell phones. Currently in pilot phase, they have been introduced with test programs in select states. Being digital, the mobile IDs are purely visual, and bad actors are already seeking ways to forge features. Visual effects such as moving GIF photos and touch points where a particular feature articulates and morphs into a wave pattern, for example, are easily replicated to appear real. Once the visual features are successfully forged they will most certainly be shared on online, but if gatekeepers are fully trained, they will be able to spot fakes.

The Future of IDs: Biometrics

Biometrics are physical characteristics. Some biometrics, such as fingerprints, irises, veins in the hands, and DNA are unique to each individual, making them useful as functional identifiers. However, it will be a while before systems that use them are inexpensive and fast enough that they can be used in a public (keyword: public) setting. Without proper safeguards, buying a beer or any other controlled product involves giving up biometric data and creates an entirely new set of personal and identity security risks.

FAKE IDs: REGULATING ALL PARTIES

America has a perpetual problem: a non-stop flow of teenagers, a non-stop flow of alcohol, and the non-stop desire of those teenagers to get ahold of alcohol. The answer to this problem lies in the strength and regular enforcement of underage drinking laws, including those related to the use of fake IDs.

Change in the retail sector is bringing about increasingly creative and convenient ways to shop, including self-checkout, cashier-less stores, online ordering, and nearly instant delivery. With progress comes unintended consequences, including easier access to alcohol. Regulations need to address all parties involved in the ordering, selling, purchase, and delivery of alcohol.

¹¹ United States Census Bureau. (2018). U.S. and World Population Clock. Retrieved from <https://www.census.gov/popclock/>

¹² Department of Transportation. (2014, November 7). Highway Finance Data Collection. Retrieved from <https://www.fhwa.dot.gov/policyinformation/pubs/hf/pl11028/chapter4.cfm>

Retail: Cashier-less Stores

Cashier-less stores create issues with shoplifting and fake IDs. With cashier-less stores, customers download an app, scan in when they arrive at the store, and choose products from shelves. When a product is lifted from a shelf, a sensor sends a message to the customer's account, and they are charged for that product. The customer then walks out the door without ever seeing a cashier. Cameras and other security measures are in place to prevent problems, but the cashier-less system is admittedly not yet perfected, so there may be risk of alcohol theft and sale to underage persons.

Websites: Online Ordering

Many websites and apps offer easy online ordering and delivery of alcohol, increasing potential risk of underage drinking. Ordering online is nearly effortless. Underage drinkers enter a false age when ordering or click "yes" on the 21+ age gate verification. When ordering online, customers can pick up in the store or have product delivered. Either way, ultimately, one person is handing alcohol to another person, and the person handing over the product must confirm that the recipient is of legal drinking age. Deliveries are left on porches or given directly to minors where delivery personnel believe the minor was taking possession for someone over 21 or where they accept a fake ID.

Third-party Delivery and Shipping

Third-party delivery and shipping companies are not licensees, meaning they do not share the same economic or legal risk of license revocation or suspension. Delivery personnel are in a quandary: they have to deliver those boxes, they cannot see what is inside boxes, and yet they may be held responsible for mistakenly delivering a controlled product. As third-party deliveries and shipments are paired with remote technologies, we'll see even more issues, such as the unlocking of a door to a house or car to deliver product directly into a foyer or trunk, neither of which requires the presence of a recipient, meaning there is no identity or age confirmation. An alarming number of deliveries are made to underage drinkers who order online and through apps and there appears to be a troubling trend of noncompliance. Sting operations in Texas and Arizona illustrate the challenges with age verification when shipping direct to consumers.¹³

Regardless of advancement in technologies, each link in the order-to-delivery chain must collaborate and engage in efforts to ensure that underage drinkers are not getting alcohol. Given the speed at which technology is increasing, every hypothetical or future form of delivery cannot be contemplated, but regulations can be applied to all parties in the chain, no matter its future form, particularly to those who ultimately may provide access of controlled product to an underage drinker. Regulations can be drafted to withstand change with universal principles that are clear, fair, understandable, and supported by the community.¹⁴

¹³ Sechler, Bob. Texas officials: Delivery apps becoming gateway for underage drinking. *American Statesman [Austin]*. 30 March 2018. Retrieved from <https://www.mystatesman.com/business/texas-officials-delivery-apps-becoming-gateway-for-underage-drinking/B2ffMf5cV8TjzqNx9mipZM/>

¹⁴ Public Health Law Center. (2014, September). Drafting Effective Policies. Retrieved from <http://www.publichealthlawcenter.org/sites/default/files/resources/Drafting%20Effective%20Policies.pdf>

NEW STANDARD OF ID CHECKING - DETAILED TRAINING

Properly and thoroughly checking IDs is effective in preventing of the use of fake IDs to access alcohol. Mandating detailed ID checking training will create a new industry standard that serves to minimize and mitigate risks. Businesses possess the greatest incentive to train gatekeepers since they risk losing their livelihood - their liquor license.

As a result of the current inadequacy of resources for ID checking training, many gatekeepers simply glance at an ID for a birthdate or a hologram that “looks” real, whatever that may mean in their limited discretion. Similarly, many gatekeepers slide the ID through a scanner or bypass the point-of-sale system by inputting a faux birthdate, all without even looking at the ID. This negligent behavior is unacceptable, yet it is a common reality because gatekeepers don’t know what to look for on real IDs or fake IDs. They’ve never been trained, they have no practical standards to follow, and they are navigating multiple pressures and competing demands.

For example, gatekeepers, often minimum wage workers, are pressured by management to move customers through check-out lines quickly to provide “better” customer service so the company can gain a competitive advantage over other retailers. This does not always allow adequate time to properly and thoroughly check ID. With proper training and support to take the time to execute that training, companies can “upskill” frontline staff to better understand their critical role as customer service representatives and gatekeepers in protecting their community, their company – including the company’s liquor license - and themselves.

Licensing regulations are valuable and effective enforcement tools, and they should include penalties for gatekeepers who do not properly or thoroughly check ID. However, it is unfair to punish gatekeepers who make reasonable efforts to check ID to control the sale and service of alcohol if they have had little or no proper training, especially where none is available. Without proper training resources, we’re punishing the wrong people.

Many current laws carry stiffer penalties for gatekeepers than fake ID users. If greater fines and penalties are imposed on the person *using* the fake ID, multiple issues will be resolved: potential users will be sufficiently deterred; the market demand will decrease thereby halting the production of (at least some) fake IDs; and gatekeepers will have diminished exposure and risk.

SUMMARY and TAKEAWAYS

A societal shift is needed to stop the tacit acceptance of underage drinking and fake IDs. Successful societal shifts make policy stick, like smoking bans, boycotting goods, and drunk driving. Much as increased penalties had an impact on drunk driving, increased penalties can have an impact on the use of fake IDs. The question is, though, when will we get to that point with fake IDs? When will consequences and societal costs become so severe that we focus more on prevention than reaction? Arguably, given the proliferation of fake IDs, current financial and legal penalties are not severe enough and current solutions are not effective enough. Following are some key takeaways and ideas for solutions.

Increased Penalties

If the penalties are severe enough to outweigh the benefit, underage drinkers will comply.

- Increase penalties to the point where they are severe enough to become real deterrents for people who use fake IDs.

- Reduce fines if valid and useful information about the source of the fake ID is provided.
- Include community service requirements, perhaps related specifically to the consequences caused.
- For repeat offenders, include stiffer penalties such as larger fines or elevated criminal penalties.

Greater Recourse for Injured Parties

Those who suffer harm related to the use of a fake ID should have broader avenues of recourse to seek reparation and damages.

- Enact new or additional laws providing recourse for those affected by the consequences related to the use of fake IDs.
- Allow a private right of action for licensees and injured parties to sue convicted offenders for losses.
- Create a “Uniform Identification Confirmation Code” to set a standard of care for training and ID checking nationwide.
- Consider a strict liability standard.

License Conditions

We can balance the competing demands of convenience and compliance by setting conditions for the issuance and retention of liquor licenses.

- Require or encourage stores to assign specific registers for alcohol sales (i.e., alcohol-free checkout lines may be faster without the delays associated with checking ID).
- Require venues with large crowds of patrons -- and particularly those close to universities and communities known to have a younger demographic -- to hire a sufficient number of trained gatekeepers during peak hours to alleviate the pressure created by long lines and to maintain a gatekeeper-to-patron ratio to properly accommodate crowds.
- Require venues with dark entries to maintain dedicated, sufficiently lighted spaces to check ID. Environmental limitations are no excuse for failing to properly check ID.
- Ensure that requirements meet a set of standards conducive to the proper checking of ID are met and agreed to in writing *before* issuing a license. Conduct on-site checks and/or require photos accompanied by detailed text explaining how the venue currently meets and will continue to meet the set standards.
- Require licensees with fake ID violations to temporarily or permanently hire on-site law enforcement or certified security guards who are *properly trained to check IDs* during regular or peak hours to deter the use of fake IDs and give gatekeepers the opportunity to pass suspected fakes to an officer or guard for a second opinion and potential

confiscation. Where appropriate, jurisdictions could empower the gatekeeper to confiscate fake IDs so they are not returned to the underage drinker and sent back into circulation. To ensure compliance with legal issues (e.g., property rights, bailment issues), arrange for the on-call or on-site presence of local law enforcement. Local bar and restaurant associations, especially those in concentrated entertainment zones, can join together to share the expense of law enforcement resources.

- Protect the gatekeeper and licensee with civil liability immunity where appropriate.

Increase Training

Creating a new industry standard for in-depth ID checking can lead to training mandates that can serve to empower and upskill frontline staff who have a dual function: customer service representative and gatekeeper.

- Require licensees' gatekeepers to contractually agree to abide by specific rules and regulations for proper training and thorough ID checking.
- Demand greater vigilance of identity and age confirmation by requiring thorough, detailed, recurrent identification training (not ten minutes of one-time training years ago).
- Engage industry organizations and associations to encourage support and sponsorship of training that includes proper and thorough ID checking content.
- Provide the licensee and gatekeeper a greater defense if they have been trained and/or if they followed a written company policy about ID checking.
- Mandate the adoption of and adherence to a written company policy with specific language about ID checking training requirements as a condition to the issuance of a license. Provide licensees with recommended language for company policies drafted by regulators.
- Do not mandate the use of scanners without the comprehensive understanding of the exact software and hardware functionality of the app or device – or lack thereof – and without the comprehensive understanding of compliance obligations for complex local, state, federal, and even international privacy laws triggered by the use of apps and scanners. Mandating scanners may expose gatekeepers, licensees, companies, and others to exponentially greater financial and legal liability.
- Do not allow swiping or scanning an ID to become an “easy out” legal defense to avoiding prosecution.

Collaboration

When regulators, law enforcement, companies, licensees, industry organizations and associations, and others consider the role they serve and what can be done individually and collectively to prevent the use of fake IDs, collaboration between government and industry can create innovative solutions in balancing community safety and the sale and service of alcohol.

- For deliveries, require the party preparing product for shipment to clearly and inextricably mark packaging as controlled product requiring age confirmation and signature.
- Notify the DMV of fake ID convictions. Notations could be added to the ID holder's record. Repeat offenses could carry greater penalties such as increased renewal fees and/or temporary suspensions of a real driver license (e.g., use a fake ID, lose your real ID).
- Notify insurance companies of fake ID convictions. Repeat offenses could carry increased premiums or suspension or cancellation of coverage.
- Notify professional organizations of fake ID convictions. Repeat offenders could lose certification temporarily or permanently (e.g., certified servers, bartenders, or security guards/bouncers who repeatedly turn a blind eye).
- For registered students, notify the university or college administration and campus police. Fake ID convictions could be noted on internal records or official school transcripts. Depending on the severity of the offense or the consequences, in the interest of campus and community safety, the student could face suspension or expulsion.

CONCLUSION

Data on the cost to the US economy caused by the use of fake IDs is lacking. Anecdotes, studies, cases, and industry statistics clearly indicate that teens are using fake IDs to access alcohol, but collective data on the aggregate economic and social damage caused directly and indirectly by the use of fake IDs is somewhat elusive.

Fake IDs are a massive problem for consumers, industry, and enforcement, but with the biggest of problems come the greatest of solutions. Regulations can create a new industry standard for checking ID that will lead to a cultural shift that ends the tacit acceptance of underage drinking and fake IDs.

Awareness of the far-reaching and life-altering consequences of fake IDs must be a priority. When we achieve a collective national ethos about fake IDs, the population as a whole will support and embrace compliance efforts. Collaborative solutions can give rise to greater compliance, and that ultimately will result in reducing consequences caused by fake IDs, saving lives and livelihoods.

ABOUT REAL IDENTITIES, LLC

Real Identities is a team of legal and tech experts based in Silicon Valley dedicated to saving lives and livelihoods by teaching gatekeepers how to properly and thoroughly check ID and how to comply with laws related to the reasons they are checking ID. The Real Identities app provides companies with 24/7 access to current and detailed information about real IDs, fake IDs, and legal compliance. As a social responsibility company, we collaborate and share information with law enforcement and government agencies. We partner with companies and professional organizations to share information and support common goals.

CONTACT

Visit www.REALIDENTITIES.com. Contact Real Identities, LLC Info@RealIdentities.com or 1-844-4REALID (1-844-473-2543) to learn more about the app, to request an online or live presentation by our experts, or to arrange a speaker for your company, agency or association which are available at no cost to the government and many industry organizations.

ABOUT THE AUTHOR

Susan Dworak is the CEO of Real Identities, LLC. Susan is a regulatory analyst and legal compliance expert based in Silicon Valley. As a corporate specialist and legal instructor, Susan has taught legal compliance to officers, directors, managers, attorneys and staff for over 50 of the nation's largest law firms and their clients for more than 25 years. Susan has coordinated and provided instruction for law firm and company training programs in multiple industries from startups and emerging brands to the largest public companies. Together with the Real Identities team, Susan teaches executives, management, and frontline staff how to avoid legal and financial consequences associated with the use of fake IDs and also how to navigate and comply with the complex legal landscapes that require companies to check IDs and confirm identities. Susan has a BA in Political Science from UCLA and a JD from Santa Clara University School of Law.

ACKNOWLEDGMENTS

This study was prepared by Real Identities, LLC and supported by a grant from the Center for Alcohol Policy, Alexandria, Virginia, a section 501(c)(3) organization, established for the purposes of exploring, researching and expanding education on alcohol regulation.

Valuable research assistance and contributions were made by Roger Slykhouse, Maryanne Pedersen, Anika Jain, and John Guess.

REFERENCES

Access Reports, Inc. (2018, May 18). Driver's Privacy Protection Act of 1994. Retrieved from [18 U.S.C. 2721-2725](#)

American Association of Motor Vehicle Administrators (AAMVA). (2018). DL/ID Standards. Retrieved from www.aamva.org/dl-id-card-design-standard/

Alcohol and Tobacco Tax and Trade Bureau. (2018). TTB Regulated Industries. Retrieved from <https://www.ttb.gov/>

Centers for Disease Control and Prevention. (2018). 1991-2015 High School Youth Risk Behavior Survey Data. Retrieved from <http://nccd.cdc.gov/youthonline/> and (2018, May 10). Fact Sheets - Underage Drinking. Retrieved from <https://www.cdc.gov/alcohol/fact-sheets/underage-drinking.htm>

Central Intelligence Agency. (2018). Retrieved from <https://www.cia.gov/index.html>

Department of Homeland Security. (2018) Retrieved from <https://www.dhs.gov/xlibrary/assets/real-id-act-text.pdf>

Department of Transportation. (2014, November 7). Highway Finance Data Collection. Retrieved from <https://www.fhwa.dot.gov/policyinformation/pubs/hf/pl11028/chapter4.cfm>

Federal Bureau of Investigation. (2018). Retrieved from <https://www.fbi.gov/>

International Alliance for Responsible Drinking. (2018). Retrieved from <http://www.iard.org/policy-tables/minimum-legal-age-limits/>

National Center for Biotechnology Information. (2018). Retrieved from <https://www.ncbi.nlm.nih.gov/pmc/>

National Highway Traffic Safety Administration. (2018). Retrieved from <https://www.nhtsa.gov/>

National Institute on Alcohol Abuse and Alcoholism. (2018). Retrieved from https://alcoholpolicy.niaaa.nih.gov/False_Identification_for_Obtaining_Alcohol.html and (2015, December). College Drinking. Retrieved from <https://pubs.niaaa.nih.gov/publications/CollegeFactSheet/CollegeFactSheet.pdf>

Pacific Institute for Research and Evaluation. (2011, September). Law Enforcement Guide to False Identification and Illegal ID Use. Retrieved from <http://www.pire.org/documents/UDETC/operational-guides/GuideToFalseIdentification.pdf> and (2015, March). Underage Drinking in the United States. Retrieved from <http://www.pire.org/documents/UDETC/cost-sheets/US.pdf>

Producers Commitments. (n.d.) Retrieved from <http://www.producerscommitments.org/commitments/reducing-under-age-drinking/>

United States Census. (2018). Retrieved from <https://www.census.gov/en.html>

United States Department of Health and Human Services. (2018). Retrieved from <https://www.hhs.gov/ash/oah/facts-and-stats/changing-face-of-americas-adolescents/index.html>

United States Department of Justice. (2018). Retrieved from <https://www.justice.gov/>

United States Government Accountability Office. (2018). Retrieved from <https://www.gao.gov/>

World Health Organization. (2018). Global Health Advisory. Retrieved from <http://www.who.int/ith/>

Copyright © 2018 Real Identities, LLC. www.RealIdentities.com. All rights reserved.