

The ban on sales of alcohol and tobacco to minors

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The Hospital, Patients, Health and Territories (French) law of July 21, 2009 (the so-called «HPST law») established a ban on the sale of alcoholic beverages and tobacco products to all minors [I] (articles L.3342-1 and L.3511-2-1 of the French Public Health Code). The prior regulations had banned the sale of alcoholic beverages [II] and tobacco [III] to minors under the age of 16. By expanding the restrictions to minors aged 16-17, legislators hoped to provide a firm response to the risks related to recent trends in alcohol consumption («massive alcohol abuse») and tobacco smoking among adolescents. In addition, these legislative provisions fall within the scope of guidelines issued by the World Health Organisation (WHO), which, based on the results of various international studies, recommends implementing validated public health strategies, including banning the sale of alcohol and tobacco to minors [1-2]. The ban on tobacco sales is stipulated in article 16 of the WHO's Framework Convention on Tobacco Control (FCTC), which was ratified by France in 2004 and became effective from 2005 [IV]. The National Health Directorate (DGS) commissioned the French Monitoring Centre for Drugs and Drug Addiction (OFDT) to conduct an evaluation of how the ban on sales to minors was being implemented and what the impact of the ban was on prevalence and accessibility [3]. To do this, the OFDT used several existing surveys [4-6] and conducted two ad hoc studies [7-8]. This issue of *Tendances* provides a summary of the key results of this assessment.

■ Prevalence of use and the perception of accessibility

Prevalence of use remains stable

In 2011, two years after the ban on the sale of alcohol and tobacco to minors was promulgated, one would have expected a decrease in the level and frequency of use of these two substances among young French people. However, from 2007 to 2011, according to the ESPAD [9] and ESCAPAD [10] surveys, the use of both alcohol and tobacco among 16-to-17-year-olds remained stable or even slightly increased (Table 1).

Evaluation of the application of the law establishing full restrictions on access to alcohol and tobacco by minors



Perceived accessibility declined slightly, but remains elevated nonetheless

Overall, the results of the ESPAD survey show that alcohol and tobacco supply is perceived by young people as less accessible. The proportion of 16-year-olds who find it easy or very easy to obtain alcohol or tobacco has dropped. This trend is much more pronounced among non-users (ESPAD, secondary analyses). In 2011, 46% of minors 16 years of age who had not drunk alcohol in the last month stated that it was easy or very easy for them to acquire beer; this percentage was 51% in 2007. This observation was even more noteworthy for spirits (24% in 2011 versus 33% in 2007). Among non-smokers, 47% considered that tobacco was easy to obtain; this number was 61% in 2007.

That said, the proportion of minors who perceived access to both substances to be fairly easy remained high, especially among young users. In 2011, a majority of 16-year-olds who had consumed alcohol in the last month considered that they would not have any difficulty obtaining beer (83%), wine (79%) or spirits (61%). Among those who had smoked in the month prior to the survey, more than 8 out of 10 (84%) stated that it would be easy or very easy to obtain tobacco if they wanted.

■ Implementation of the ban on sales

For retailers, compliance with the law implies refusing all sales of alcohol or tobacco in the event of doubt about a customer's

age. Retailers can then require customers to produce proof of their age with some form of identification (L. 3342-1 and D. 3512-3 of the Public Health Code). Therefore, the law is enforced when an alcohol or tobacco retailer verifies a customer's identification and when such retailers effectively refuse to sell to an underage minor.

Very little verification of age

Requesting identification to verify the age of a young customer remains an infrequent practice. Only half of the alcoholic beverage retailers surveyed in 2012 stated having requested identification - with varying frequency - when in doubt about the age of a young customer. Nearly 15% of these alcoholic beverage retailers stated only rarely checking identification, and one third reported never verifying at all [3-7]. However, checking age identification has become much more frequent since 2005 at all points of sale, with the exception of cafés and bars, only one-third of which verify (Graph 1). For tobacco sales, «mystery shopping» surveys¹ conducted by the CNCT (French National Tobacco Control Committee) [4-5] reveal that tobacco retailer requests for customer identification remain as infrequent in 2011 as they were in 2006 (barely 10% of tobacco retailers check the age of their young customers).

Very few refusals to sell

There are numerous sales offences. Only six out of ten alcoholic beverage retailers [3] and four out of ten tobacco retailers [5] systematically refuse to sell to a minor. However, sales practices are changing, and tending towards more compliance with the law compared with the pre-2009 situation: 45% of alcoholic beverage retailers and 25% of tobacco retailers now refuse to sell to an unde-

Regulations pertaining to the ban of sales of alcohol to minors

The first ban on the sale of alcoholic beverages to minors was enacted in France in 1917 [V]. It only regulated «spirits and alcohol-containing liqueurs». Article L80 of the Code instituted by Pierre Mendès-France [VI] expanded the ban to include people under the age of 20 and specified the nature of the alcoholic beverages for which the sales were restricted (distilled beverages). The ordonnance of 1959 then established different restrictions for places where alcohol is drunk on the site of sale (i.e., «on-premises») and places where alcohol is sold for consumption elsewhere (i.e., «off-premises») [VII]. This ordonnance banned the sale of distilled beverages to customers under the age of 20 for on-premise consumption and established the legal age for off-premise distilled beverage purchases to 16. The sale of fermented beverages (such as wine, beer and cider) by on-premise establishments was banned for minors under the age of 12 (this age was raised to 14 by the ordonnance of 29 November, 1960). The sale of such beverages in off-premise establishments was still authorised to anyone, regardless of their age. The legislation changed in 1974, when the age of majority in France was set at 18: the ban on the sale of distilled alcoholic beverages for on-premise consumption was then also decreased to 18. Other regulatory changes followed. In 1991, for the first time, the Évin law established a ban on the sale of all alcoholic beverages in retail outlets. However, this ban only applied to minors under the age of 16. Since 2009, by establishing the minimum legal age as 18, the ban on the sale of all alcoholic beverages, both on- and off-premises, has also applied to 16-to-17-year olds. The HPST law simplified the prior provisions, but more importantly, it put an end to the previous regulatory inconsistencies, which did not establish the same restrictions for all minors.

rage customer. Although there is still poor compliance with the law in general, it seems that legislation is contributing to stricter sales practices.

A reduction in the scope of the ban

The sample of minors interviewed for the qualitative OFDT survey [3, 8] never spontaneously reported having difficulties obtaining alcohol or tobacco. On the contrary, they mention diverse, rather commonplace and effective strategies for obtaining both of these substances. The most common of these strategies is to ask adult friends (or friends who appear to be of legal age) or family members to purchase on their behalf. However, they may also approach unknown adults at the retail site to purchase on their behalf. These minors are adept at identifying those retailers who do not comply with the law and target

these retailers first. Finally, especially for alcohol, adolescents frequently do not need to resort to illegal practices: their parents often provide what they need to organise a party.

All of the minors surveyed, whether they used these substances or not, observed that the measure is easily circumvented by customers or infrequently applied by retailers. There are minor differences in these general assertions depending on the substance. For alcohol, it is more the ease with which these adolescents can circumvent the law than the laxity of the retailers that helps the adolescents obtain their substance. For tobacco, although some refusals to sell were mentioned, they were few and far between, and the adolescents claimed that they are almost never asked to justify their age.

The resultant low number of refusals by tobacco retailers and the circumvention strategies employed by young users are evidenced by the ease with which these minors can obtain alcohol and tobacco, which discredits the regulations in their eyes. Subsequently, the legislation is described as being «ineffective» or «useless». These perceptions are consistent with the statements made by young people in surveys of the general population. In 2011, 30% of adolescents aged 16 who had drunk alcohol in the month prior to the survey had purchased beer or spirits in that same period for their personal use; compared with 2007, this percentage is down for beer, but stable for spirits. Although, at that time, the sale of spirits was authorised in off-premise establishments, since 2009 it has been

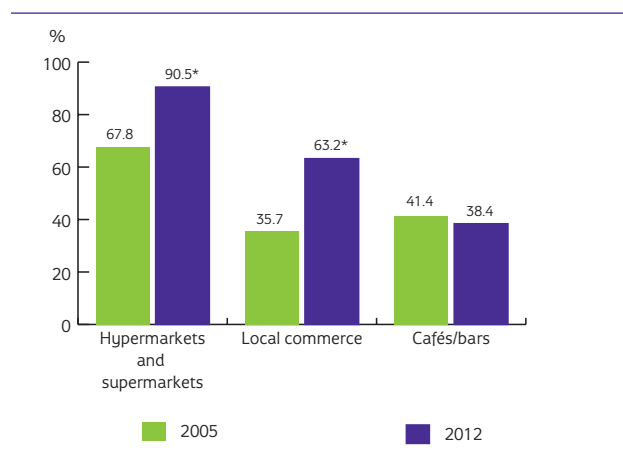
Table 1 - Changes in alcohol and tobacco use among minors from 2007-2008 to 2011

16-year-old minors	Pre-HPST (2007)	Post-HPST (2011)	Trend
Regular alcohol use (use in the last month: >=10 times)	13%	14%	➔
Regular drunken episodes (in the last year: >=10)	3.5%	4%	➔
Heavy episodic drinking (>=1 episode of 5 drinks at once in the last month)	43%	44%	➔
Daily tobacco use	17%	23*%	↗
17-year-old minors	Pre-HPST (2008)	Post-HPST (2011)	Trend
Regular alcohol use (use in the last month: >=10 times)	8.9%	10.5*%	↗
Regular drunken episodes (in the last year: >=10)	8.6%	10.5*%	↗
Heavy episodic drinking (>=1 episode of 5 drinks at once in the last month)	48.7%	53.2*%	↗
Daily tobacco use	28.9%	31.5*%	↗

Source : ESPAD, OFDT (2007, 2011) ; ESCAPAD, OFDT (2008, 2011).
*: Chi-2 test significant at 0.05

1. These are observational surveys: under the supervision of a professional conducting the survey, minors attempt to purchase a product that retailers are legally prohibited from selling to them. The professional stays in the background to observe how the retailers targeted by the survey behave during the attempted purchase.

Graph 1 - Proportion of retailers requesting identification when in doubt about the age of a customer, by type of retail outlet, 2005 vs. 2012



Source: OFDT/LH2 survey of alcoholic beverage retailers (2012).
Local commerce: grocery stores, convenience stores, service stations.
*: Chi-2 test significant at 0.05

totally prohibited for both categories of alcoholic beverages; therefore, the ways in which young people procure alcohol reveal that there is little compliance with the law. The observations are even more striking for tobacco: in 2011, 93% of 16-year-old smokers had purchased tobacco at least once at a tobacco retail outlet in the month prior to the survey. They were 84% to do so in 2007 [9-11]. This coincident increase in purchasing at a tobacco retail outlet and legal ban are difficult to explain, but also attest to poor compliance with the law.

■ How can the law meet its goal?

Current enforcement of this law is imperfect, and has little effect on perceived availability, actual procurement and prevalence of use. In order for the law to be enforced, certain conditions need to be filled.

Awareness about the ban cannot be called into question

Compliance with the ban and high levels of regulatory awareness are crucial to the successful enforcement of the measure. In 2012, the French general public was largely in favour of banning the sale of alcohol and tobacco to minors: nine out of every ten French people supported the measure (according to the EROPP, Survey on Representations, Opinions and Perceptions regarding Psychoactive Drugs). This support was widespread in 2008 for alcohol, and increased (+ 2 points) when the tobacco law was adopted [12]. Both retail outlets and adolescents deem this regulation positive and justified in terms of protecting minors [3-5-7]. Furthermore, the prohibitive regulations are fairly well-known, despite the differences in awareness of the professionals surveyed. Alcoholic beve-

rage retailers have thoroughly integrated the new age limit of 18, although tobacco retailers are less compliant. There are fairly high levels of awareness about the penalties, especially the fines, even though their exact amounts (€135 for tobacco and €7,500 for alcohol) are often underestimated. In addition, tobacco retailers generally know that they can ask young customers for identification to prove their age.

Among the minors, the regulations are less well-known. Some confuse the ban on sales with a ban on purchasing, and the majority are ignorant of the sanctions to which the retailers are subject. Nevertheless, all adolescents are perfectly aware that there is some kind of ban on these two substances, and in theory, they support it. Subsequently, the tools for enforcing the law do not need to focus on raising awareness about the legislation, but rather in emphasising controlling and support measures for retailers.

Reinforcing controls and support measures for retailers

Compliance checks (and subsequently, penalties) seem to be too few and far between to have any real dissuasive effect. The majority of the alcoholic beverage retailers surveyed [3] had not been inspected by the competent authorities in the last five years (Graph 2). The same holds true for tobacco retailers in 2011: they report that compliance checks are rare [5]. This may be due to the difficulty in establishing proof that an offence was committed and in the need for significant human resources to perform compliance checks. However, the literature demonstrates that controlling the ban on sales to minors is crucial to reducing prevalence and accessibility [13-14]. Assessments performed in the United States show that compliance checks must be performed frequently and often, i.e., four to six times per year. Moreo-

ver, the probability that a control will occur must be the same throughout a territory, and not limited to certain geographic areas. Controls must also be shored up by more effective awareness-raising measures, and not just purely repressive interventions. It appears that the application of proportionality in terms of penalties is essential, and should range from a simple warning to an administrative penalty to, as a last resort, the closure of the establishment in question [15-16-17-18-19].

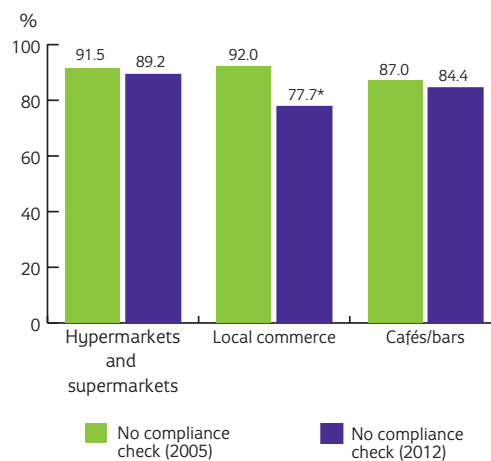
The literature also demonstrates the real importance of providing support to retailers. In France, such support would help train retailers by providing them with practical, concrete strategies for refusing a sale to a minor. In 2011, tobacco retailers continued to report difficulties questioning the age of their young customers, and displayed a general reticence to request identification [5]. In 2012, six out of ten alcoholic beverage retailers stated that the HPST law had not in any way made it easier to comply with regulations, and 9% found it more difficult to enforce this law than the previous restrictions [3, 8].

Legislators could focus on actions that aim to educate and train professionals. To be more effective, these actions should target all key community stakeholders (teachers, parents, the police, elected officials and associations) and not just retailers. The more «destandardised» the behaviour of a minor, the more retailers feel justified or obligated to enforce «responsible sales» [1].

■ Conclusion

It has been two years since the promulgation of the HPST law prohibiting retailers from selling alcohol and tobacco

Graph 2 - Reported frequency of compliance checks by the authorities on the sale of alcohol to minors in the last five years, 2005 vs. 2012



Source: OFDT/LH2 survey of alcoholic beverage retailers (2012).
Local commerce: grocery stores, convenience stores, service stations.
*: Chi-2 test significant at 0.05

to all minors, and the impact on the drinking and smoking behaviour still appears to be minimal. Perceived accessibility is slightly down, but many adolescents, and young users in particular, still state that it would be easy or very easy for them to obtain alcohol or tobacco if they wished to do so. This ease in obtaining alcohol and tobacco discredits the image of the bans. Yet, the available literature shows that this measure can be effective at decreasing prevalence of use among minors, if application by retailers is massive. In France, even though retailer selling methods have changed and become more stringent since the adoption of the new restrictions, they are still ineffective over-

rall. Simply adopting legislation is not enough to limit actual access to alcohol and tobacco. Enforcing the law so that it has an impact on use is a real challenge. To succeed, it is necessary for certain concomitant enforcement conditions to be present, and especially compliance checks and supportive actions towards retailers. In addition, to truly help «des-standarise» the use of alcohol and tobacco by young people, the ban on sales to minors must be sustainably enforced and be accompanied by measures that have been shown in the literature to be effective, such as price policies [3]. ■

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methodological reference points

Several data sources were used: quantitative surveys of adults and young in the general population, quantitative surveys of professionals in the field, and qualitative interviews. Only the methodology of unpublished studies funded by the DGS (National Health Directorate) within the scope of this report is described. For more information on the sources used and their limitations, please consult the report [3].

■ Quantitative survey of alcoholic beverage retailers by LH2/OFDT (2012)

This survey, which was conducted by the LH2 survey institute at the OFDT's request, aimed to assess the application of the existing measures to restrict the access of alcohol to minors. The survey was based on the knowledge, opinions and behaviours of alcoholic beverage retailers. The person from such establishments who was most often in contact with the customers answered a face-to-face questionnaire administered by an LH2 interviewer. The questionnaire was first administered in 2005 (from March to May of that year), and was repeated in 2012 (from January to February of that year). The purpose was to learn about the changes that had occurred since the promulgation of the HPST law. Each survey was conducted among about one thousand establishments selling alcohol and frequented by young people (cafés/bars, service stations, grocery/convenience stores, supermarkets and hypermarkets). The sample was established randomly from the INSEE database of companies registered in France, and was stratified according to type of outlet, geographic location and urban category. The results were then adjusted so that they would represent the current situation of these establishments in France. At 90% in 2012, the level of participation was more satisfactory than in 2005, when the participation rate was 75%.

■ Qualitative sociological study conducted by the OFDT on the ban on sales to minors (2012)

In 2012, 44 face-to-face, semi-directive interviews were conducted by the University of Nantes and the OFDT among minors aged 12 to 17. The sample was established to ensure optimal diversity in the profile of the surveyed minors in terms of age, sex, socio-economic background and use/non-use of alcohol and tobacco. Based on a thematic interview guide, the purpose of the survey was to determine the level of knowledge and the perceptions of the bans on the sale of tobacco and alcohol to minors, as well as their perceptions regarding the accessibility of these products, how they acquired them and how they used them. The interviews were recorded and fully transcribed. Once they were transcribed, a thematic analysis was conducted.

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