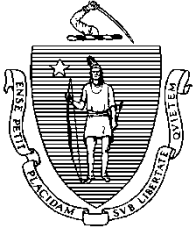


*DPH Legislative Report*



**The Commonwealth of Massachusetts**  
Executive Office of Health and Human Services  
Department of Public Health  
250 Washington Street, Boston, MA 02108-4619

**MAURA T. HEALEY**  
Governor

**KIMBERLEY DRISCOLL**  
Lieutenant Governor

**KATHLEEN E. WALSH**  
Secretary

**Robert Goldstein, MD, PhD**  
Commissioner

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October 28<sup>th</sup>, 2024


Steven T. James  
House Clerk  
State House Room 145  
Boston, MA 02133

Michael D. Hurley  
Senate Clerk  
State House Room 335  
Boston, MA 02133

Dear Mr. Clerk,

Pursuant to line item 4513-1136 Chapter 28 of the Acts of 2023 the FY24 General Appropriations Act, please find enclosed a report from the Department of Public Health entitled "Recommendations to Address Drink Spiking and Substance Facilitated Sexual Assault in the Commonwealth."

Sincerely,

  
Robert Goldstein, MD, PhD  
Commissioner  
Department of Public Health

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**MAURA T. HEALEY**  
GOVERNOR

**KIMBERLEY DRISCOLL**  
LIEUTENANT GOVERNOR



**KATHLEEN E. WALSH**  
SECRETARY

**ROBERT GOLDSTEIN, MD, PhD**  
COMMISSIONER

# **Recommendations to Address Drink Spiking and Substance Facilitated Sexual Assault in the Commonwealth**

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### **Legislative Mandate**

The following report is hereby issued pursuant to Chapter 28 of the Acts of 2023 (General Appropriations Act for FY24) of the Massachusetts General Laws as follows:

4513-1136: Provided further, that not less than \$150,000 shall be expended for the department of public health's division of sexual and domestic violence prevention and services, in consultation with relevant stakeholders, to develop, research and recommend evidence-based and evidence-informed prevention strategies to address the rising incidence of reported drink spiking in the commonwealth; provided further, that funds may be expended for the bulk purchase of drink spiking test kits to be distributed at bars, restaurants and nightlife establishments in the commonwealth; provided further, that not later than December 29, 2023, the department shall submit a report to the joint committee on public health and the house and senate committees on ways and means detailing: (a) recommendations for eligible, research-based drink spiking prevention tools, including, but not limited to, drink spiking test kits; (b) an examination of how prevention tools can be distributed in an effective manner to individuals and vulnerable populations, including, but not limited to, distribution directly to bars, restaurants and nightlife establishments; and (c) other considerations the department may deem relevant for an evidence-based or evidence-informed public health response to drink spiking incidents in the commonwealth; provided further, that not less than \$150,000 shall be expended for the department of public health's division of sexual and domestic violence prevention and services to develop and launch a strategic and comprehensive public awareness campaign to inform the public about the prevalence and danger of involuntary drink spiking through the department's website, digital and social media, traditional media and other media; and provided further, that the department may partner with relevant advocacy organizations, employers, boards of health, institutions of higher education and community groups to ensure that the campaign reaches populations deemed most at risk of being targeted for drink spiking and includes evidence-based, evidence-informed and culturally-relevant response and safety tips for patrons at bars, restaurants and nightlife establishments.

## Executive Summary

Line item 4513-1136 of Chapter 28 of the Acts of 2023, the FY24 General Appropriations Act, charged the Department of Public Health's Division of Sexual and Domestic Violence Prevention and Services to:

- Develop, research and recommend evidence-based and evidence-informed prevention strategies to address the rising incidence of reported drink spiking in the commonwealth, including the bulk purchase of drink spiking test kits to be distributed at bars, restaurants and nightlife establishments in the commonwealth.
- Develop and launch a strategic and comprehensive public awareness campaign to inform the public about the prevalence and danger of involuntary drink spiking through the department's website, digital and social media, traditional media and other media.

A review of existing research indicates the following findings:

- While MDMA (ecstasy), LSD, GHB, ketamine, and Rohypnol are common substances used in substance facilitated sexual assault, the most commonly used substance is alcohol, in particular the overconsumption of alcohol.<sup>1</sup>
- The efficacy of personal drink-spiking test tools has no evidence base. In addition, research indicates problems with availability and implementation of personal testing tools.
- Prevention, bystander intervention, and culture norms change are shown to be more effective and durable strategies to prevent drink spiking and substance facilitated sexual assaults.

Based on this review of the most recently available data, the division of sexual and domestic violence prevention and services provides the following recommendation to address the rising incidence of reported drink spiking:

- Implement prevention initiatives that address social norms, attitudes, and behaviors that lead to substance-facilitated sexual assault.
- Engage bystander intervention programs, focused on staff and patrons of the hospitality industry.

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<sup>1</sup> Lahane, N., & Kaur, G. (2022). Drug facilitated sexual assault and their analysis. *Materials Today: Proceedings*, 48, 1240–1245. <https://doi.org/10.1016/j.matpr.2021.08.262>

## **Introduction**

The increased reports of incidents of drink spiking in the commonwealth was the impetus for a legislative mandate to investigate and implement evidence-based and evidence-informed strategies to address this issue. This has resulted in the need to identify prevention tools and strategies and how to best implement them, particularly to vulnerable populations and communities.

To that end, a review of existing research related to the prevention of and intervention following drink spiking and substance-facilitated sexual assault was conducted. Due to the reality that drink-spiking often occurs in public venues where the consumption of alcohol is ubiquitous, strategies that prioritize the hospitality industry are essential. This includes but is not limited to bars, restaurants, and nightlife establishments. As drink spiking is a common strategy to facilitate assault, in particular sexual assault, recommendations to address this issue will be grounded in sexual violence prevention and intervention strategies with an evidence base of efficacy.

Data from the Massachusetts Department of Public Health's Sexual Assault Nurse Examiner program (SANE) demonstrate that just under 40% of the 916 individuals seeking SANE exams in FY23 reported drug facilitated sexual assault, and toxicological testing is done for substances, medications, or drugs such as marijuana, cocaine, alcohol, amphetamines, barbiturates, opiates, antidepressants, antihistamines, and others. Toxicology tests and results are sent to the Massachusetts State Police Crime Lab and are accessed by patients directly and/or by law enforcement or prosecutors for use in the criminal legal process. DPH does not have access to that data.

While it is important to be responsive to the reality of drink spiking through additive substances, a more common occurrence in cases of sexual assault is a perpetrator using a victim's recreational substance and/or alcohol consumption or overconsumption to coerce or force sexual activity.<sup>2</sup> In cases where an individual consumes substances against their knowledge or will, regardless of whether an assault is attempted or successful, it is essential that medical care is available in alignment with the individual's wishes.

Based on this analysis, the department has identified several recommendations for prevention tools and strategies that align with evidence-based best practice.

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<sup>2</sup> Anderson, L., Flynn, A., & Schumann, J. (2017). A global epidemiological perspective on the toxicology of drug-facilitated sexual assault: A systematic review. *Journal of Forensic and Legal Medicine*, 47, 46–54. <https://doi.org/10.1016/j.jflm.2017.02.005>

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### Response to Drink Spiking Test Kits:

A review of the relevant literature found a notable lack of research on the efficacy of personal testing tools, including strip tests, nail polish, coasters, and cups, to indicate the presence of substances. It should be noted that in the United States, no significant research on substance facilitated sexual assault has been conducted; most of the evidence base comes from other countries.

Further, existing evidence indicates a lack of reliability in commercially available and marketed personal testing tools, including:

- High likelihood of false negatives and false positives.<sup>3</sup>
- Some tools could only identify specific types of substances, which is problematic given the reality that multiple common substances can be used.
- One-time use tests intended for administration on-site at the hospitality venue allow for only a point in time analysis. Substances could be introduced after that without the person's knowledge. Retesting over the course of time would be required.
- Concern about the ability to source personal testing tools in large quantities.
- Lack of ability to consistently implement use of these tests in establishments serving alcohol; e.g., plastic cup testing tools cannot be used in establishments that serve drink using glass cups.

Without mechanisms in place to support the distribution and storage, as well as training for industry staff, personal test kits do not constitute a durable strategy. In addition, research indicates that the use of testing kits by the public requires further investigation and could cause harm by creating a false sense of security and/or undue concern among users due to the prevalence of false results.<sup>4</sup> Staff have focused recommendations on prevention and intervention strategies that are supported by the evidence and, therefore, did not include the bulk-purchase and distribution of personal test kits in our recommendations to address the issue of drink spiking in the commonwealth.

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<sup>3</sup> Child, A. M., & Child, P. (2007). Ability of Commercially Available "Date-Rape" Drug Test Kits to Detect Gamma-Hydroxybutyrate in Popular Drinks. *Canadian Society of Forensic Science Journal*, 40(3), 131–141. <https://doi.org/10.1080/00085030.2007.10757155>

<sup>4</sup> Beynon, C. M., McVeigh, C., McVeigh, J., Leavey, C., & Bellis, M. A. (2008). The Involvement of Drugs and Alcohol in Drug-Facilitated Sexual Assault: A Systematic Review of the Evidence. *Trauma, Violence, & Abuse*, 9(3), 178–188. <https://doi.org/10.1177/15248380083202>



## Recommendations:

Overwhelming evidence shows that misogyny, toxic masculinity, and sexism are root causes behind sexual violence, particularly in nightclub establishments, and require responses that support culture change.<sup>5 6</sup> Prevention strategies to address sexual assault that focus on challenging these social norms in an effort to promote healthy relationships, effective boundary setting, and consent are shown by data to be highly effective. Successful awareness and social norms campaigns confront these social norms, increase public awareness to help victims recognize the effects of substances, and provide encouragement and information to support victims seeking help, including appropriate diagnosis and care from emergency services.<sup>7</sup> Efforts to raise awareness that alcohol is the most common substance to facilitate sexual assault are also indicated.<sup>8</sup> Data show that campaigns warning about the risk of becoming a victim, or even a perpetrator, of sexual assault by excessive use of alcohol are a necessary step in addressing the problem.<sup>9</sup>

Evidence-based skills-focused training programs have been shown to empower individuals through experiential training and increase their knowledge and skills ... to recognize warning signs and take action as bystanders or potential victims to prevent and/or interrupt sexual assault.<sup>10</sup> Prevention strategies must focus on addressing masculinity norms among male patrons and staff, as these norms support sexual aggression; better management of the highly sexualized and sexist environments of many bars is also indicated.<sup>11</sup> Therefore, awareness and social norms campaigns paired with bystander and empowerment-based training initiatives focusing on hospitality industry staff and settings should be implemented to prevent the occurrence of drink spiking and/or substance facilitated sexual assault.

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<sup>5</sup> Graham, K., Bernards, S., Wayne Osgood, D., Abbey, A., Parks, M., Flynn, A., Dumas, T., & Wells, S. (2014). "Blurred Lines?" Sexual Aggression and Barroom Culture. *Alcoholism: Clinical and Experimental Research*, 38(5), 1416–1424. <https://doi.org/10.1111/acer.12356>

<sup>6</sup> Graham, K., Bernards, S., Abbey, A., Dumas, T. M., & Wells, S. (2017). When Women Do Not Want It: Young Female Bargoers' Experiences With and Responses to Sexual Harassment in Social Drinking Contexts. *Violence Against Women*, 23(12), 1419–1441. <https://doi.org/10.1177/1077801216661037>

<sup>7</sup> Busardò, F. P., Vari, M. R., di Trana, A., Malaca, S., Carlier, J., & di Luca, N. M. (2019). Drug-facilitated sexual assaults (DFSA): A serious underestimated issue. *European Review for Medical and Pharmacological Sciences*, 23(24), 10577–10587. [https://doi.org/10.26355/eurrev\\_201912\\_19753](https://doi.org/10.26355/eurrev_201912_19753)

<sup>8</sup> Monk, L., & Jones, A. (2014). Alcohol consumption as a risk factor for sexual assault: A retrospective analysis. *Journal of Forensic and Legal Medicine*, 23, 55–61. <https://doi.org/10.1016/j.jflm.2014.01.015>

<sup>9</sup> Olszewski, D. (2009). Sexual assaults facilitated by drugs or alcohol. *Drugs: Education, Prevention and Policy*, 16(1), 39–52. <https://doi.org/10.1080/09687630802128756>

<sup>10</sup> Banyard, V. L., Moynihan, M. M., & Plante, E. G. (2007). Sexual violence prevention through bystander education: An experimental evaluation. *Journal of Community Psychology*, 35(4), 463–481. <https://doi.org/10.1002/jcop.20159>

<sup>11</sup> Graham, K., Bernards, S., Wayne Osgood, D., Abbey, A., Parks, M., Flynn, A., Dumas, T., & Wells, S. (2014). "Blurred Lines?" Sexual Aggression and Barroom Culture. *Alcoholism: Clinical and Experimental Research*, 38(5), 1416–1424. <https://doi.org/10.1111/acer.12356>

**Distribution and Implementation:**

**Training:** There are existing organizations with a primary focus of providing training and technical assistance to hospitality staff to increase skills of prevention and intervention in the cases of sexual violence, harassment, and assault in environments where substances such as alcohol and drugs are present. Relying on existing structures for statewide and local collaboration and cross-training will be effective distribution mechanisms for training and skill-building within the hospitality industry. Licensing renewal processes could include a requirement that staff complete an evidence-based training, pending an assessment of the feasibility of implementation given the number of providers qualified to provide this training and the number of establishments across the state that would be required to do so.

**Campaign:** Implementation of awareness campaigns should include leveraging media, social media, and website content to develop and elevate existing messaging that has been shown to be effective to address culture norms and raise awareness for victims, bystanders, and perpetrators.

**Other Considerations:**

Some individuals who experience drink spiking report an inability to obtain medical testing at hospitals because they had not experienced sexual assault. This issue should be investigated for additional opportunities to respond effectively to drink spiking.

## **Conclusion**

While news media in Massachusetts have reported a marked increase in incidents of drink spiking, substance-facilitated sexual assault is not a new issue. Therefore, not surprisingly, strategies to address, prevent, and intervene with drink spiking strongly align with best practices and research from sexual violence prevention efforts.

The findings and recommendations herein for prevention tools and strategies focus on culture change in the form of awareness campaigns and skill-building trainings. These include:

- State and local level prevention and awareness initiatives that focus on shifting social norms that lead to substance facilitated sexual assault, and raising awareness about how victims can seek help.
- Bystander intervention training for hospitality industry staff and patrons.

Notably, the distribution of personal testing kits is not recommended at this time due to the lack of evidence of efficacy and the barriers to access and implementation noted in the research. Recommendations for durable strategies are built upon existing research in the field of sexual violence prevention and intervention and integrate research on substance facilitated sexual assault and test kit efficacy studies. Implementation of these recommendations can be accomplished by expanding on existing activities, collaborations, and strategies at local and state-wide levels and seeking collaboration with organizations with demonstrated expertise in supporting hospitality industry staff and establishments on these issues.

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