

Alcohol Compliance Checks

**A procedures manual
for enforcing alcohol
age-of-sale laws**

PREFACE

Alcohol consumption by young people has a profound effect on our nation, our communities, our families, and our children. Alcohol use by teens is related to traffic crashes, crime, teenage pregnancies, sexually transmitted diseases, suicides, drownings, and poor performance in school. Teenage drinking also has a direct economic effect on our communities; the costs of law enforcement, health care, education, treatment, and other services increase as resources are diverted to attend to the painful and often tragic consequences of teenage drinking.

What can be done? In recent years many organizations have attempted to identify innovative and effective methods to reduce underage drinking. Some approaches have focused on educating young people about the dangers of drinking and equipping them with the knowledge and skills to make responsible choices. Other approaches have tried to strengthen the relationships young people have with family, peers, teachers and others. Still others have focused on the array of adult institutions that manufacture, distribute, sell, provide, market, promote, and regulate alcohol.

No single approach will entirely solve the problem. But each approach, wisely implemented and used in combination with other promising strategies, may reduce the scope of the problem and limit the damage to America's next generation. Current research shows that effective and regular compliance checks help decrease alcohol sales to minors.

This manual is designed for public officials, law enforcement officers, and alcohol-regulation agents as a practical guide for developing and implementing a compliance check system for establishments that sell or serve alcohol. Extensive research in recent years indicates that while many alcohol establishments act responsibly in refusing sales to underage buyers, a significant number of establishments continue to sell to people under the legal drinking age of 21.

We have attempted to make this manual as user-friendly and practical as possible. We have drawn from the experiences of many communities around the nation that already conduct compliance checks, as well as from the experience of numerous respected and knowledgeable leaders in the law enforcement community. We hope the manual will remove some of the practical barriers to enforcement of alcohol laws. Effective enforcement is one of the keys to reducing alcohol sales to minors and building safe, healthy communities for youth.

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Alcohol Epidemiology Program
Division of Epidemiology and Community Health
School of Public Health
University of Minnesota
1300 South Second Street Suite 300
Minneapolis, MN 55454-1015 USA

Director: Traci L. Toomey, PhD

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Dedication

This manual is dedicated to young people whose lives have been harmed by alcohol that was illegally provided or purchased.

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WHY ENFORCE LIQUOR LAWS?

Effective, inexpensive, and increasingly requested by community interest groups, enforcement of liquor laws can provide law enforcement agencies with a powerful tool in the fight against crime. Evidence shows that regular compliance checks of establishments that sell or serve alcohol decrease sales to underage youth.

Alcohol has been identified as a major contributing factor to a wide variety of crimes. Crimes against both persons and property often involve people who have consumed alcohol. Research shows that the earlier teenagers start drinking, the more likely they will later become addicted to alcohol or other drugs. When states raised the legal drinking age to 21, researchers found that the rate of alcohol consumption and alcohol-related problems decreased among 18- to 20-year-olds; those who started drinking later in life drank less and drank less often. Thus, reducing the availability of alcohol to youth is an effective strategy to reduce crime, both today and in the future.

Throughout the United States law enforcement has been participating in efforts to limit youth access to alcohol. Progressive law enforcement executives are experimenting with assigning resources to this area of enforcement. Participating in community education and then checking businesses to determine if they comply with liquor laws is effective in decreasing youth access to alcohol, which leads to reductions in alcohol-related crime, and associated problems.

WHY COMPLIANCE CHECKS?

Law enforcement is challenged by an overwhelming variety of demands and budget constraints. In this environment, why are alcohol law compliance checks important?. Law enforcement needs to do compliance checks because businesses regularly sell alcohol to underage people.

✓ **Compliance checks work**

- Research show that regular compliance checks are the most effective way to prevent alcohol sales to youth.

✓ **Compliance checks may reduce crime and alcohol-related problems**

- Enforcing laws prohibiting the sale of alcohol to underage persons can help prevent traffic crashes, the major cause of death among youth.
- Teen pregnancy, sexually transmitted diseases, and school dropout rates increase with teen drinking rates; reducing underage access to alcohol can lower the frequency of these social problems.
- Fights, vandalism, noise complaints, and other nuisance calls are often caused by young people drinking alcohol; decreasing youth access to alcohol is an effective tool in preventing these problems and reducing the time law enforcement spends on these types of complaints.
- Rape and other crimes of violence involving teens often involve perpetrators and victims who have been drinking; reducing youth access to alcohol helps fight these crimes.

✓ **Compliance checks are easy to do**

- Once organized, compliance check operations are easy, quick, and inexpensive.
- Any officer who has worked the scene of a fatal crash involving youth and alcohol will prefer conducting compliance checks.

✓ **Compliance checks send a strong message**

- Well-publicized compliance check operations are good public relations.
- Compliance operations send a message to the community that providing alcohol to young people is not acceptable.
- Publicity surrounding compliance check operations may affect the attitudes of parents and other adult alcohol providers; they begin to view underage drinking as less acceptable.

CONDUCTING COMPLIANCE CHECKS

PRE-OPERATION ACTIVITIES

Type of Compliance Check

Determine what type of compliance check operation fits your jurisdiction: administrative, criminal, or educational. State laws and court decisions in your jurisdiction may limit how compliance checks may be conducted. A checklist in **Appendix A** lists this and other decisions that you must make to plan a successful compliance check operation.

Ordinance Review/Revision

State statutes are the primary source of law for age-of-sale enforcement. Local ordinances, however, may provide greater flexibility to law enforcement agencies. If your state allows local jurisdictions to adopt ordinances, consider the following:

1. Increased license fees to fund the compliance check operation.

Funding compliance checks with license fees is appropriate. Unless license fees cover the costs of administering the license, taxpayers are effectively subsidizing the cost of running the licensed business.

2. Specific progressive fines for first, second, and subsequent violations.

Your state statute may provide for a range of fines and license suspension as the consequence of a licensee making an illegal alcohol sale. Judges and administrative authorities seldom impose maximum consequences; however, fear of high fines or loss of licenses often prompts licensees to fight charges. The cost of compliance check operations goes up each time a trial or administrative hearing is held. Ordinances that provide reasonable and specific presumptive progressive fines have several benefits:

- Licensing authorities are more likely to apply penalties to first-time offenders if sanctions are graduated and the first penalty is not overly severe
- Business owners may be less likely to contest charges
- The community may see specific graduated consequences as being fairer to the businesses
- When egregious violations occur, enforcement authorities can request deviation from the presumed penalty.

See sample ordinances in **Appendix B** for examples of progressive penalties.

3. Equal treatment in terms of fines for all three parties involved in an illegal sale — the buyer, the seller, and the licensee.

Business owners often complain that they could be put out of business by irresponsible employees or youth who commit the crime of illegally purchasing alcohol. They claim that enforcement directed only at licensees is not fair. Evidence

suggests that in some jurisdictions enforcement efforts focus on youth, not adult providers or licensees.

Ordinances that include a “full circle of responsibility” approach equalize the consequences of an initial offense for the buyer, seller and licensee. Equal and reasonable first offense fines make it easy for all identified parties involved with the violation to be held equally accountable.

Legal counsel for your jurisdiction, State Attorney General offices, the State Liquor enforcement agency, and state municipal organizations are all good sources for state-specific information on local ordinance options.

Decisions

Note the choices you make regarding the following issues in the space provided in the Decision Checklist, **Appendix A**.

? Type and Quantity of Alcohol to Purchase

Consider youthful drinking practices to determine the type and quantity of alcohol to purchase in your compliance check operation. It is generally believed that there is a relationship between the volume of beer purchased and the danger that alcohol sale generates.

The need to preserve illegally sold alcohol as evidence will influence the type of alcohol to purchase in an on-premise attempt. Bottled beer (with retrievable caps) is the easiest type of on-premise purchase to preserve. If you choose to purchase mixed drinks or glasses of beer, you may need additional supplies to successfully preserve the evidence.

On-premise purchases: Single drink

On-premise establishments include bars, restaurants and other business that sell alcohol for consumption on premises. Youthful buyers usually purchase a common beer brand in a bottle (e.g., Miller or Bud Lite).

Off-premise purchases: Six-pack of beer

Off-premise establishments include convenience stores, grocery stores, liquor stores and other businesses where no on-site alcohol consumption is allowed. Youthful buyers usually purchase a common beer brand in cans (e.g., Miller or Bud Lite).

NOTE: Select quantities to be purchased by considering the impact on the seller, judges, and licensing officials. Like the “apparent age” issue (see “Hire and Train Buyers” section below), in some jurisdictions the letter of the law is sufficient and any quantity of alcohol purchased will sustain criminal or administrative sanctions. In other jurisdictions, however, the quantity purchased and its potential to cause harm may be considered.

? One Versus Two Officers

Many departments conduct compliance checks with only one officer and one buyer. Ideally, two officers, one in plainclothes as an observer and a second outside in uniform, will participate in the compliance check. Having an officer witness the sales transaction can eliminate virtually all challenges of entrapment. The presence of an observing officer also simplifies the post-buy identification of the seller and immediately focuses attention away from the buyer and onto the officers.

In researching compliance check operations across the country no reports were found of buyers being injured. However, the greatest safety for buyers can be achieved if they are under close observation by an officer. Your knowledge of the risk level of establishments in your jurisdiction, as well as budget limitations, will affect your decision to use one or two officers. If using two officers is impractical, consider alternatives. Departments have successfully conducted compliance checks in which the buyer carries a video camera in a backpack, a transmitting body wire or a small tape recorder to generate a video or an audio record of the sales transaction. If a case goes to trial, this secondary evidence may minimize challenges to the buyer's testimony, and reduce the burden on the buyer.

? Multiple Buyers/Multiple Purchase Attempts

Using two or more buyers in a compliance check operation is a more thorough test of a business' tendency to sell alcohol to underage youth. The outcome in single-buyer checks realistically reflects the behavior of only one employee, which may or may not be representative of the business' general practices. Checks by multiple buyers are most suited to businesses that have more than one employee engaged in selling or serving alcohol.

A multiple-buyer approach offers the business a greater opportunity to have at least partial success. Charging decisions and or sentence/sanction recommendations could be proportional to the business' success in complying with the law. If one or more buyers are refused sale (i.e., a success), then the action taken against the business for selling to the other buyer(s) could be justifiably reduced. Total failure in multiple-buyer purchase attempts offers a stronger case for sanctions. A multiple-buyer process will also help to defeat arguments attributing the sale to the buyer's appearance (apparent age) or the misconduct of a single employee.

Even if the compliance check operation involves making single purchase attempts at each site, it is helpful to have two buyers work together. Buyers are usually more comfortable when working with another person their age. Employing two buyers allows alternating buyers at off-premise licensees, which may offset the effects of businesses that warn each other that compliance checks are being done. Having two buyers (one attempts to purchase alcohol, the other does not) at on-premise establishments creates a more natural social setting and minimizes the likelihood that a single buyer will be approached by other customers. When a single buyer enters with an older plainclothes police officer, waitpersons/bartenders may perceive the pair as a family unit. This

“parent effect” may prompt sales that otherwise would not occur. Most agencies try to avoid the parent effect.

? Viewing the Buyer

Some owners and managers, after an underage sale has occurred in their establishment, request to view the buyer to assess the buyer’s apparent age. Establish policy on requests to view the buyer. Inform the owner or manager that he or she will have an opportunity to observe the buyer in court or at the administrative hearing. Or, if you do decide to provide a view of the buyer, show the owner/manager the buyer’s ID card (cover the name and address) and pre-operation photograph. The ID provides proof of actual age and the photograph shows current appearance. If you decide to allow a direct view of the buyer, the viewing should occur outside at the unmarked squad car and only if the owner/manager remains calm. The owner or manager will be in a public place and the buyer can easily retreat into the cruiser should hostility ensue.

Site Selection

The ideal compliance check campaign systematically checks all licensees in the jurisdiction. Successful operations have been conducted in a wave format in which all licensees are checked over a short period of time. Some communities have experienced long-term success in changing compliance rates by conducting waves of compliance checks twice annually, on an irregular schedule. Other successful operations run on a routine periodic basis, in which a few businesses are checked every few weeks. This approach avoids periods when businesses can be reasonably certain no checks will be conducted. Research shows that the effect of compliance checks on establishments starts to disappear in about three months.

To successfully counter claims that you are unfairly targeting a particular business, establish a protocol defining which businesses will be checked during any particular operation. Targeting a particular business type--for example off-premise convenience stores--leaves the operation open to complaints of favoritism. An off-premise owner may complain that on-premise establishments don’t get checked as often. Ideally, every type of licensee should experience an equal deterrent effect from an equal likelihood of being checked. Approaches to selecting sites, in order of presumed effectiveness, include:

- 1. Random selection.** Obtain a complete list of licensees; select and check sites randomly.
- 2. Region.** If resources are limited, select one region of the jurisdiction and attempt checks at all licensees within that area.
- 3. Underage sale record.** Re-check sites that have sold to minors in earlier checks.
- 4. Arrest & investigation source tracking.** Check businesses that are frequently identified as the sources of alcohol in crime involving people who have been drinking (obtain this information from arrest and investigation reports).
- 5. Complaint-driven checks.** Check businesses identified in other law enforcement investigations as possible sources of alcohol for underage persons. To avoid claims that competitors or others can maliciously cause a business to be checked,

don't check those establishments identified in anonymous or unverified complaints.

- 6. License type.** Select businesses by license type (e.g., liquor store, convenience store, restaurant, bar, etc.) and rotate among types.

Whenever possible, conduct future operations at sites not initially targeted until all licensees in the jurisdiction have been checked (except for repeat visits to those that failed the first check).

Lists of alcohol licensees in your jurisdiction can usually be obtained from the issuing authority or one of the following:

- Local licensing authority (clerk of the city or town council)
- State Alcohol Beverage Control Agency
- State alcohol tax agency

Plan Review

Once you have made initial decisions and have identified sites (or regions) to be checked, and before the first operation, review the compliance check operation plan with prosecutors and licensing officials. The use of the operation checklist (see **Appendix C**) may be helpful when reviewing the operation with others.

Town/City Council/County Board

License administration has both legal and political dimensions. A pre-operation hearing or meeting is an ideal opportunity for law enforcement to call for support of the compliance check operation from public health officials and community groups organized around alcohol issues. News of the compliance check operation will likely prompt some business owners to call their city council members. Ideally, council members will have advance knowledge of how and why the compliance operation is conducted. Council members, acting as the licensing authority, have an obligation to enforce alcohol laws by imposing certain restrictions on business; however, they are often expected to promote business as well. If business owners complain about upcoming compliance checks, council members can respond with:

“Didn’t you read the information on complying with liquor laws in the notice letter you received?”

“Don’t you know how much crime and other problems in our community are related to underage drinking?”

Evaluate the political climate in your jurisdiction and consider calling both citizens and experts on alcohol issues to provide testimony on the value of compliance checks at a council meeting. Sources of credible experts include:

- State Department of Health staff
- Local county or city public health staff

- Community or regional prevention coalitions
- A doctor or nurse from the local hospital emergency department
- College or university faculty and staff who research youth alcohol use
- Local drug and alcohol counselors — from clinics, private practice, schools, local hospitals, or professional organizations
- Youth who are concerned about the issue

Prior Notice

Educate the community and businesses about liquor laws and provide notice that compliance checks will be conducted sometime in the next year. The community policing movement reflects the expectations of many citizens that, in addition to crime investigation and criminal prosecution, law enforcement agencies play a proactive role in crime prevention. Prior notice to both the licensees and the community will provide:

- **Reduced rates of sales to youth.** Departments have found that educating people involved with alcohol sales, giving prior notice of compliance checks, and following up with warning-only checks, helps bring a majority of the businesses into compliance. Thus, the small percentage of businesses that sell to youth after receiving notice and warning-only checks exhibit exceptional behavior, and hopefully makes prosecution easier.
- **Increased awareness of liquor laws.** Providing notice to businesses of upcoming compliance checks may create the perception among staff that enforcement will occur, which often serves as a deterrent to making an illegal sale.
- **Improved case outcomes.** Judges and licensing authorities may be more likely to take action against non-compliant businesses that have received education and warnings about upcoming compliance checks.
- **Support from the business community.** The business community will be more likely to support the law enforcement agency if they feel they had fair warnings of upcoming checks and educational support.

How to Inform Businesses

Write a letter to all alcohol sales licensees who will be part of your compliance check operation indicating that you will soon be conducting compliance checks in their area. Include in the letter recommendations for how the business can ensure compliance with the law (see sample notice letter in **Appendix D**). Responsible beverage service training is recommended for all servers/sellers. A list of national training programs is attached as **Appendix E**. Both the contents of the notice letter and the manner in which it is delivered communicate the seriousness of complying with alcohol sales laws. Keep a record that a letter was delivered as evidence of notice for criminal or administrative hearings (see sample receipt in **Appendix F**). Choose one of the following methods of delivering the letter:

- » Ideally, have officers deliver the letters to the business owners and obtain signed receipts. Personal delivery of the notice letter sends a powerful message to business owners about the seriousness of the enforcement effort. Direct contact with establishment staff provides an opportunity for officers to answer questions and highlight critical elements of the laws.
- » Mail letters “certified–return receipt requested.”
- » Require licensees to attend annual (monthly or quarterly in large jurisdictions) licensee training programs at which licensees receive a notice letter. Typically, these training programs involve a one-morning session where law enforcement, public health, and licensing authorities present information on laws and compliance strategies for preventing the sale of alcohol to underage or intoxicated persons. Some jurisdictions combine license renewal with a training session (i.e., licensees pick up their renewed licenses at a three-hour educational session).

Sending notices through standard mail carries much less impact than hand-delivery and provides no evidence that the liquor licensee actually received the notice. In addition to the letter, another method of informing businesses of upcoming compliance checks and building business support is to encourage patrol officers to discuss liquor laws with servers/sellers at establishments that will be checked. Using casual “coffee stops” during quiet times on afternoon and evening shifts, officers can educate while building useful contacts among these “eyes and ears” of the community. A “Stop & Talk” outline is attached as **Appendix G**.

Why and How to Inform the Community

Announcements in local media (TV, radio, newspapers, posters on community bulletin boards, school papers, etc.) and presentations by officers to community groups can provide public notice of upcoming compliance check operations. Sample public service scripts, posters, and print ads are included in **Appendices H, I, & J**. Notifying the community of upcoming compliance checks is beneficial in the following ways:

- » Community members are inoculated against objecting to the compliance check operation, and may be more likely to ask why businesses sell alcohol to youth when they know it is illegal.
- » Provides further notification to alcohol business owners and sellers/servers that compliance check operations will be conducted.
- » Heightens the attention of parents and other adults to underage alcohol use. Messages directed to adults may decrease youth access to alcohol in the home, at keg parties, or through other adults in the community.
- » Builds support for compliance checks from the community at-large. Many citizens are concerned about youth alcohol use and will be supportive of efforts to reduce illegal youth access to alcohol.

Hire and Train Buyers

Paid versus Volunteer Buyers

Issues to consider include:

- ✓ Paid buyers may be covered by municipal insurance in the event of accident or injury.
- ✓ Some prosecutors consider paid buyers to be more credible in court. Paid employees are seen as professional and are less susceptible to being characterized as anti-alcohol crusaders.
- ✓ Recruiting volunteer participants may be difficult or time-consuming.
- ✓ Paid buyers are often more committed to being available for court/administrative hearings.
- ✓ However, volunteers may be necessary due to lack of funds or to avoid bureaucratic hassles.

Pay should not be related in any way to purchase attempt success or failure rates. Match buyer wages to prevailing wages in the local community.

Apparent Age

An analysis of the political and legal climate of your jurisdiction will govern the extent to which you need to assess “apparent age” in buyer selection. For many judges and city councils, the only evidence needed of an illegal sale is proof of the buyer’s age and that a sale was made. However, some business owners, sellers/servers, judges, and councilpersons believe that “apparent age” warrants consideration. They may argue that any “reasonable person” would have considered an older-appearing buyer to be age 21, regardless of actual age. Counter defenses of apparent age in the following ways:

- Hold an age assessment panel before hiring buyers (see **Appendix K**).
- Call sellers and servers who refused to sell to the buyer as witnesses in administrative or criminal hearings.

Sources of Buyers

- ✓ Law enforcement cadet programs
- ✓ Criminal justice college courses
- ✓ Ads in college newspapers
- ✓ Youth (known by other police departments) who aspire to be law enforcement officers
- ✓ Children or relatives of departmental personnel

See sample buyer recruitment flyer and newspaper advertisement in **Appendices L and M**.

NOTE: Departments with limited resources should consider soliciting the assistance of local MADD/SADD members, explorer posts, health departments or other similar groups to recruit and select buyers. Once buyers have been located and trained, departments may wish to consider sharing the resource with other police departments.

Buyer Characteristics

- ✓ **Age 18 to 19.** Avoid the borderline age of 20 to help avoid “apparent age” challenges or confusion if the buyer turns 21 between purchase and testimony.
- ✓ **Appearance.**
Female--little or no makeup, casual attire, average height and build.
Male--no facial hair, casual attire, average height and build.
- ✓ **Drinking behavior.** Some prosecutors prefer compliance checks to involve buyers who have never purchased or possessed alcohol illegally, and who commit to not purchasing or possessing alcohol throughout the duration of the project (including court proceedings). Check with your prosecutor.
- ✓ **Witness.** Buyers must be willing to testify in court or at administrative hearings.

Buyer Training

See **Appendix N** for details on buyer training.

Logistics

Site Packet Preparation

Assemble packets for each site before the date of the compliance check operation (see **Appendix O** for a checklist of what to include in site packets). If your jurisdiction will check a large number of licensees, the local Explorers or a SADD group may be able to help with the packet assembly process.

Plan Routes

Establish target lists with specified criteria (random, region, etc.). Prepare maps that show the location of each establishment and the order in which the purchase attempts should occur.

Schedule Buyers/Officers

Prepare a work schedule for buyers and officers who will perform the compliance checks.

Obtain and Document Cash

Obtain cash to be used in the purchase attempts. Keep accounting records of money spent at each establishment. Some departments document and track serial numbers of bills for evidence.

Obtain and Prepare Evidence Containers

Check with your forensic laboratory for their requirements. Some labs may require use of specific bottles for preserving alcohol samples from open containers. They may also have specific recommendation for how to store the samples (e.g., refrigeration).

IMPLEMENTING THE COMPLIANCE CHECK

Follow the steps below to implement the compliance check purchase attempt:

1. **Photograph** the buyer. (Repeat each day – document and preserve as evidence)
2. **Search** the buyer to document that he/she is not carrying extra cash and/or age identification.
3. Briefly **review** training. (See **Appendix N**)

AT EACH SITE:

4. **Distribute** purchase attempt cash to the buyer.
5. **Plainclothes officer enters** establishment; exits if conditions are inappropriate for check. (Use of a plainclothes officer inside the establishment is optional but strongly recommended; small agencies may need to swap officers with neighboring agencies to avoid recognition of the officer by the sellers).
6. **Buyer enters** and **selects** six-pack of beer (off-premise) or places order for a bottle of beer (on-premise).
7. Buyer and plainclothes officer **witness** seller/server's refusal or sale (see buyer training in **Appendix N** for detailed buyer protocol). Buyer does not consume any alcohol!
8. If using two buyers, **second buyer enters** and makes a second purchase attempt, from a different employee if possible (confrontation of the sellers should occur after the last buy attempt in the establishment).
9. IMMEDIATE POST-BUY CONTACT PROCEDURE: Plainclothes **officer approaches server/seller**, explains check, and signals uniformed officer by radio to enter the site.

DELAYED POST-BUY CONTACT PROCEDURE: Officer exits site and fully documents sale with sufficient detail to ensure identification of the individual seller when contact is made at a later time.

AT THE TIME OF CONTACT:

10. **Uniformed officer enters**. Seller/server identified and probable cause transferred from plainclothes to uniformed officer.
11. Uniformed officer **processes seller/server** and oversees **notification of business** management.
 - A. Success (no-sale). Issues congratulations (immediately **provides positive feedback**) and identifies seller as a possible witness of apparent age.
 - B. Failure (sale). Issues warning, summons/citation or notice of intent to refer the case for charges.
12. Buyer/plainclothes officer **processes** (bag and tag) **evidence, monitors buyer(s) and insures their safety**.
13. Buyer/plainclothes officer exit to cruiser to **complete reports, review buyer's report prior to starting next purchase attempt and prepare for the next check**.
14. **Viewing** of buyer's photograph ID upon owner/manager request.
15. Uniformed **officer clears**.

16. **Process repeated** at next assigned target business.
17. At the end of the shift **complete all reports** and **log in evidence**.
18. **Refer reports** to appropriate authority for criminal or administrative charges.

Report Writing

Businesses that face license suspension or revocation, and the potential of losing thousands of dollars in business, may make an aggressive defense against charges stemming from an illegal alcohol sale. A well-conducted compliance check leaves the defendant seller and business with only one possible defense: charging the officer or the buyer with entrapment. To counter this defense, officers should ensure that their reports are thorough and accurate. An aggressive defense attorney and inquisitive reporters can combine to subject the case to public review and legal scrutiny more typical of a major felony case.

POST-OPERATION ACTIVITIES

Submit Reports

The chief or sheriff should submit reports to the local or state licensing authority for the imposition of administrative sanctions. Some departments elect to delay initiation of the administrative process until the criminal process has concluded to prevent interference with the prosecution. Inform licensees of the timeline.

Communication with Businesses

A letter of appreciation to businesses that did not sell to underage buyers serves several purposes:

- Licensees get positive feedback about the efforts they took to ensure staff were compliant with the laws.
- Licensees will be prompted to re-think the importance of compliance. The letter could include data on the overall outcome of the compliance check operation and information about the consequences for those who failed the compliance check.
- Licensees will be prompted to communicate with their staff the importance of compliance when selling and serving.
- Continuing business education after the enforcement operation will be powerful evidence to counter claims that law enforcement is “out to get businesses.”
- A second letter directed to the individual seller, but mailed to the owner or manager, will prompt management to positively reinforce the seller’s good behavior.

Sample licensee and seller letters are attached to this manual as **Appendix P**. Some cities send businesses a certificate suitable for framing, allowing the business to display recognition that they did not sell alcohol to underage youth.

Communication with the Community

News releases on the compliance check operation, which include data on the negative consequences of alcohol access by minors, can further influence community attitudes toward underage access to alcohol. Most departments issue a press release soon after the first wave of compliance checks is complete, citing successes and failures and the number of reports sent to the prosecutor for charges. Other departments elect to use criminal conviction or administrative hearing results as the lead for the news release, avoiding pre-trial/hearing publicity. Ideally, news releases should be issued both after the first wave of compliance checks and after conviction(s). News releases contribute significantly to the effect of your operation in the following ways:

- ✓ They send powerful messages to the community that the chief executive of their law enforcement agency considers providing alcohol to underage persons a serious issue
- ✓ They provide an opportunity to educate the entire community on the negative consequences of alcohol use by youth (e.g., crime, teen pregnancy, educational problems, auto crashes, etc.)
- ✓ They let community residents know that their law enforcement agency is proactive in trying to help keep their kids safe
- ✓ They send messages to businesses and individuals working as alcohol servers or sellers that law enforcement is paying attention to their level of compliance with alcohol sales laws.

News releases increase the possibility that the news media may seek to identify and report the identity of specific businesses that sold illegally. “Right to Know” laws in many states make such information available to the public. Each chief law enforcement officer will want to weigh the positive benefits of publicity against the consequences of the media publicly identifying the businesses. Media may learn of the compliance check operation and demand business identity and sales information even if a press release is not issued. Departments that are planning to use press releases or that anticipate demands for information from the press on the identity of businesses that fail the compliance checks may wish to explain in the pre-check notices to businesses that public identification of sellers may occur.

A sample news release is attached to this manual as **Appendix Q**.

Activate community groups that have an interest in alcohol and youth issues. Contact the local MADD/SADD chapters, neighborhood councils, groups serving teens, block clubs, prevention committees or others who will support efforts to restrict teen access to alcohol. These groups can provide important political support. Should merchants exert political pressure in an effort to prevent compliance checks these groups will often want to serve as a counterbalance. Groups organized around public health and safety will

want to reassure elected officials that important electoral constituencies want compliance checks. These groups also serve as an excellent source of volunteer help and often can assist law enforcement agencies in obtaining funding.

Educating the Court/Council

Educating the public officials who will hear cases is extremely important. Alcohol plays an important role in American culture. Many people, including participants in the criminal justice system, may remember participating in underage drinking. Credible research has been done suggesting that one drink per day may even improve health for some, particularly middle-aged and older males at risk for cardiovascular disease. Unfortunately, this potential benefit is far outweighed by the large number of people for whom alcohol may be life-threatening.

The prosecutors of alcohol offenses and the presenters at administrative sanction hearings need to recognize and respect the social acceptability of alcohol. Judges, juries, and elected officials who hear administrative cases, and even some law enforcement officers, often have conflicting views on the seriousness of underage alcohol consumption. Acknowledging the legitimacy of the use of alcohol in moderation by many adults may help alleviate some of these conflicting outlooks. Assess the “track record” or attitudes of the local court or council and consider including an educational effort in early prosecutions/administrative hearings. A well-crafted and brief presentation by a local expert on the consequences of youth access to alcohol can exert a powerful influence on these decision-makers. Strategies for entering expert testimony and an outline of research on alcohol are included in **Appendix R**.

OTHER CONSIDERATIONS

Departments that bypass an educational wave of checks and bring criminal cases on the first wave may benefit from postponing the decision to charge until after all checks have been completed. The charging recommendation by the law enforcement agency head may be influenced by an analysis of sales rates, a review of the evidence gathered, and interaction with the community. Some departments have experienced exceptionally high sales rates that undermine the strength of a criminal case. Two identified factors that contribute to unusually high sales rates are a buyer whose apparent age is consistently judged by sellers to be over 21, and a community-wide norm of noncompliance with the law. These problems are more likely to arise where no pre-buy age assessment was conducted and where little or no pre-operation community education occurred. Other issues and strategies for fighting youth access to alcohol are covered in **Appendix S**.

Telegraphing – Delayed Post-Buy Contact

Many businesses that are checked during a compliance operation will call neighboring businesses to warn them a compliance check is occurring and to provide a description

of the buyer who is working with law enforcement. This behavior is often called “telegraphing.” Some departments use several buyers, alternating buyers from business to business to minimize the effect of such warnings.

Agencies have reported that telegraphing has become so great a problem that they have altered their compliance check procedures to avoid immediate post contact with the seller/business. These agencies conduct a purchase attempt at several establishments without any law enforcement contact with the sellers or the businesses. After all business selected for that wave of inspections have been checked officers return to complete enforcement or education activities. Anecdotal evidence suggests that most licensees who have been warned that compliance checks are being done in the area are atypically careful for a short period following the warning. Communities with a large number of licensees typically schedule waves (buy nights) several weeks apart. Their objective is a fair test of the businesses’ typical level of compliance, not to test the level of compliance stemming from a warning that a check is imminent.

A delayed post-buy contact procedure complicates evidence preservation at on-premise establishments. Typically, the buyers have to preserve and remove the evidence. Usually the buyer (ideally a buy team of two) will pour a sample from the bottle or glass into an evidence bottle and carry it to the squad car in his or her pocket. The food must be paid for. With immediate post-buy procedures, the officer typically interrupts the food order. It is canceled or ignored and establishments seldom expect payment. With delayed post-buy contact the buy teams either wait for delivery of ordered food and eat, or must leave early placing an adequate amount of cash at the table to cover the bill.

Some agencies return to the site on the same evening; others return on a subsequent night. Store clerks, bartenders, and waitpersons tend to have varying schedules and some difficulty has been experienced in making contact with the seller to issue a summons, requiring several visits to the site. It will be more difficult to obtain the buy money as evidence, as by the time the officer returns several hours after the sale it may have been given out as change or will be co-mingled with other receipts.

When delayed post-buy contact is used, more extensive reports are made to insure accurate identification of the seller upon the return visit for summons or congratulations. An observing officer is essential to facilitate identification of the seller.

Agencies should be aware that telegraphing could negate the validity of checks conducted at businesses warned that a check is imminent. The more complex delayed post-buy contact procedure may be necessary to effectively determine if a business routinely verifies age before making sales of alcohol.

Agencies that encounter a business community that consistently telegraphs (communicates to each other when compliance checks occur), and where buyers are easily accessible (e.g., regular cadet ride-a-longs) may benefit from checking only one business in the community every few weeks. Telegraphing between businesses will

have the effect of enhancing overall compliance, and an accurate measure of compliance may be obtainable.

Repeat & Egregious Offenders

Occasionally particular businesses will be identified as blatantly disregarding the liquor law. Several tactics can build a case for more severe sanctions for these types of businesses, including permanent license revocation. Conduct compliance checks at the business using multiple buyers over multiple days, to show a pattern of blatant violation of the law. Procedures should include:

- Make no immediate post-buy contact with the seller.
- Use a variety of buyers of various ages and both genders.
- Use surveillance photography to document the seller's identity.
- Use progressively younger buyers to establish the age limit, if any, of customers usually carded at this business.
- Attempt to target different sellers (store clerks, waitpersons, bartenders) to show that the pattern of sales is attributable to the policy of the licensee, not to one particular irresponsible employee.
- Target shifts when the licensee and/or a manager are typically working the cash register, counter, or bar.
- For off-premise businesses, consider an increase in the quantity of beer being purchased. Volume often correlates to potential short-term harm. Selling two cases of beer to a 17-year-old will be difficult for anyone to justify.

Combined Tobacco Checks

(Optional; not recommended)

The compliance check processes for alcohol and tobacco are similar in many ways. Many off-premise alcohol licensees also have tobacco licenses. Combining compliance checks for both alcohol and tobacco at these businesses may offer operational efficiency. However, caution should be exercised in combining these operations.

Consider the following:

- The legal age to purchase tobacco is 18; the legal age to purchase alcohol is 21. As a result, buyers of different ages will be needed. A 14-year-old seeking to buy tobacco would not be extraordinary, whereas the same person seeking to buy alcohol would.
- A check determining if a clerk will sell alcohol to someone who looks under 18 will leave unanswered the seller's practice in selling/serving of 18- to 20-year-old youths.

- In small jurisdictions where strangers attract attention, two consecutive strangers buying controlled products may attract attention and prompt clerks who typically do not check IDs to do so, or may induce one establishment to warn neighboring establishments of the suspicious buyers.

Separate compliance operations will be more effective in focusing the attention of the sellers, servers, business owners, and the community on the separate issues of alcohol and tobacco access by youth. However, combined recruitment, training, and education processes for the buyers can be used to limit the time and expense involved. If combined checks cannot be avoided due to budgetary limitations, consider the following safeguards:

- **Use two buyers.** Use one buyer with an apparent age of 15 to 17 for tobacco checks and a second buyer with an apparent age of 18 or 19 for alcohol checks. Alternate the order in which the buy attempts are made from one store to the next.
- **Check multiple sellers.** If the business has more than one clerk and/or cash register in operation, have the buyers attempt to purchase from different clerks. This will minimize the influence of one check on the other and will better represent the general practice of the business as opposed to the behavior of a single clerk.

CONCLUSION

Overwhelming evidence indicates that alcohol does not belong in the hands of our youth; underage drinking harms our communities, our families, and our children. Compliance checks are a powerful and positive tool for law enforcement to use in restricting youth access to alcohol, because they hold *adult suppliers* accountable for the problem.

Compliance checks are also effective community policing tools. Law enforcement agencies can significantly reduce the illegal sales of alcohol to underage persons by conducting cost-effective compliance check operations. Pre-planning and interaction with the community enhance community support and improve outcomes at trials and administrative hearings. Careful selection of underage buyers helps avoid conflict over their apparent age. Publicity and officer interactions with servers, clerks, and business people can influence community norms on tolerance of youth drinking alcohol. Compliance checks are an important weapon in law enforcement's arsenal and may be an effective method for reducing alcohol-related crime and public health problems.

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Appendix A: Decision Checklist

ISSUE	OPTIONS	OPTION SELECTED
Determine type of compliance check	<ol style="list-style-type: none"> 1. Educational only – issue warnings 2. Educational/administrative – no criminal charges 3. Administrative & criminal 	
Review/revise ordinances or statutory criminal sanctions	<ol style="list-style-type: none"> 1. Use state law 2. Use local ordinance 3. Sponsor enactment of (or revision of) local ordinance 	
On-premise: type & quantity of alcohol	<ol style="list-style-type: none"> 1. Bottle beer – brand/type (e.g., Bud Lite) 2. Mixed drink – drink (e.g., Strawberry Daiquiri) 3. Other – (specify) 	
Off-premise: type & quantity of alcohol	<ol style="list-style-type: none"> 1. Six-pack of beer – brand/type (e.g., Busch cans) 2. Bottle beer – brand/type (e.g., Bud) 3. Other – (specify) 	
Number of officers	<ol style="list-style-type: none"> 1. Two (one uniform & one plainclothes) 2. One 	
Number of buyers	<ol style="list-style-type: none"> 1. One buyer 2. Two buyers 3. Multiple buyers 	
Viewing the buyer	<ol style="list-style-type: none"> 1. Provide view using ID & photo 2. Allow in-person viewing at the cruiser 3. None 	
Buyer compensation	<ol style="list-style-type: none"> 1. Paid 2. Volunteer 	
Site selection	<ol style="list-style-type: none"> 1. Random selection from all licensees in jurisdiction 2. All licensees in (define region) 3. All licensees who failed previous checks 4. All licensees identified in investigations and source tracking 5. All licensees identified in verified complaints 6. All licensees of a certain type 	
Plan review	<ol style="list-style-type: none"> 1. Public hearing with expert testimony on negative consequences of youth alcohol consumption 2. Written report of operational plan and purpose 3. None 	
Prior notice to businesses	<ol style="list-style-type: none"> 1. No notice 2. Notice letter <ol style="list-style-type: none"> a. Hand-delivered with receipt b. Mailed certified return receipt requested c. Mailed standard 	
Prior notice to community	<ol style="list-style-type: none"> 1. Radio/TV public service announcements 2. Posters 3. Print ads in local newspapers 4. Patrol officer “Stop & Talks” 	

Buyers – Where to recruit	<ol style="list-style-type: none"> 1. Law enforcement cadets 2. Criminal justice college courses 3. Ads in college newspapers 4. Other law enforcement. departments 5. Children/relatives of dept. personnel 	
“Age assessment” of buyers	<ol style="list-style-type: none"> 1. Department staff only 2. Community age assessment panel 	
Immediate vs. delayed post-buy contact with sellers/servers	<ol style="list-style-type: none"> 1. Immediate contact with both failures and successes 2. Immediate contact with failures only 3. Delayed contact with both failures and successes 	
Buyers to carry/show ID	<ol style="list-style-type: none"> 1. Carry no ID – report that it is in the car and leave if your ID is requested. 2. Carry valid ID and present it if requested. (Not recommended for initial checks) 	
Site packet preparation	<ol style="list-style-type: none"> 1. Assigned to departmental staff 2. Solicit assistance from: <i>specify</i> (i.e., Explorer post, SADD, etc.) 3. None 	
No sale – immediate follow-up	<ol style="list-style-type: none"> 1. Uniformed officer identifies seller and congratulates 2. None 	
Sale – immediate follow-up	<ol style="list-style-type: none"> 1. Uniformed officer issues citation 2. Uniformed officer issues warning 	
No sale – delayed post-buy contact	<ol style="list-style-type: none"> 1. Officer visits site at end of shift/wave and delivers notice of success 2. Letter of notice of success mailed to site 	
Sale – delayed post-buy contact	<ol style="list-style-type: none"> 1. Officer returns to site after all sites for that shift/wave checked, IDs seller, and issues citation/notice of failure 	
Post-buy communication – with successful (i.e., no sale) licensees	<ol style="list-style-type: none"> 1. Letter of congratulations to the seller 2. Letter of congratulations to the licensee 	
Post-buy news releases	<ol style="list-style-type: none"> 1. After each wave 2. After administrative hearings 3. After criminal convictions 	
Alcohol only vs. alcohol & tobacco	<ol style="list-style-type: none"> 1. Separate compliance checks 2. Combined checks at dually licensed sites 	

Appendix B: Model Ordinances

State laws that authorize local jurisdictions to adopt ordinances vary significantly. This appendix offers sample model ordinances that conform to Minnesota law to provide an example of ordinances that have been found to be effective by law enforcement. Contact your state's Attorney General or other appropriate legal authority to determine if the option of local ordinances is available in your state.

Communities have used a variety of local ordinances as tools in controlling the sale of alcohol to underage and intoxicated persons. Research on the effectiveness of different approaches is not complete. Based on anecdotal reports communities may want to consider:

- Civil penalty structures (Model I below)
- Presumptive penalties (Model II below)
- Graduated penalties (both Model I & Model II below)

Penalties imposed by local ordinance as “**civil penalties**” carry less of a stigma than the criminal penalties provided for in the statute. The character of evidence required to sustain imposition of a civil penalty is less burdensome than that required for a criminal conviction. The use of civil penalties and local ordinances can make the compliance check process less difficult to operate and less onerous on those found to be non-compliant. Use of the civil penalty/local ordinance approach does not preclude using the statutory criminal process when egregious circumstances or repeat offenses make the criminal process more appropriate. Model I provides an example of a civil penalty ordinance.

Presumptive penalties establish a standard consequence that will be imposed for making an illegal sale. Provisions provide for deviation, up or down, from the presumptive penalty when exceptional circumstances exist. Presumptive penalties provide clear notice of the consequences of non-compliance.

Graduated penalties affix a relatively small cost to first offenses while providing increasingly larger consequences to those who don't correct their behavior. Graduated penalties are generally seen as being fair. It is believed that people accept sanctions more readily and that the sanctions are more apt to change behavior when they are seen as fair. Model I below uses a percentage increase approach to its civil penalties. Model II below has set increases in both the civil penalties and periods of licensees' suspension as an element of the presumptive penalty grid.

We provide the following two models for consideration. Several other models exist. Local jurisdiction's legal counsel should be able to help select the approach best suited to each communities need.

Model I. Civil penalty structures: Intended to provide the City with an informal, cost effective and practical alternative to traditional enforcement for violations of certain

alcohol ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with a designated administrative offense

Model II. Presumptive penalty grid: To be used with more traditional ordinance approaches, the grid on the following pages provides an example of how presumptive civil penalties can be structured.

Model I – Civil Penalty Structures

GENERAL LICENSE RESTRICTIONS: RESPONSIBILITY OF LICENSEE, RIGHT TO SEARCH, AND COMPLIANCE CHECKS

In light of the high risk involvement with illegal conduct that an establishment selling or serving alcoholic beverages poses to the general public, the City shall hold every licensee responsible for the conduct of his or her place of business and the conditions of sobriety and order in it, as required by Minnesota Statute Section 340A.501. The act of any employee of the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable for all penalties provided by this ordinance equally with the employee, except criminal penalties.

Section 1. Requirements.

The issuing authority or the City Police Department or both shall:

- (a) have, as a condition of the license, the right to enter, inspect, and search the licensed premises without a search and seizure warrant during the hours in which the licensed premises are open for the sale of alcoholic beverages; and
- (b) conduct at least two (2) compliance checks each year, and shall issue citations to any licensee violating the provisions of their license or any relevant provisions of Minnesota Statute 340A.

ADMINISTRATIVE PENALTIES: GENERAL PROVISION

Section 1. Administrative Offense Defined.

- (a) An administrative offense is a violation of a provision of this Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 7 below.
- (b) At any time prior to the payment of the administrative penalty as is provided for hereafter, the individual may withdraw from participation in the procedures in which event the City may bring criminal charges in accordance with law. Likewise, the City, in its discretion, may choose not to initiate an administrative offense procedure and may bring criminal charges in the first instance.

Section 2. Notice.

Any officer of the City Police Department or any other person employed by the City, authorized in writing by the City Manager, and having authority to enforce this Code, shall, upon determining that there has been a violation, notify the violator. This notice shall set forth the nature, date and time of violation, and amount of the scheduled penalty.

Section 3. Payment.

Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or may request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

Section 4. Hearing.

Any person contesting an administrative offense pursuant to this Chapter may, within seven (7) days of the time of issuance of the notice, request a hearing by a hearing officer who shall forthwith conduct an informal hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed.

Section 5. Failure to Pay.

- (a) In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the City for the same violation.
- (b) In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City will seek to collect the costs of the administrative offense procedures as part of the subsequent criminal sentence in the event the party is charged and is convicted guilty of the criminal violation.

Section 6. Disposition of Penalties.

All penalties collected pursuant to this Chapter shall be paid to the City treasurer and shall be used to fund the cost of development and operation of related programs.

Section 7. Offenses and Penalties.

Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Manager [Mayor].

This ordinance shall take effect within _____ days.

ADMINISTRATIVE PENALTIES FOR LIQUOR LAW VIOLATORS

Section 1. Penalties for Noncompliance.

In addition to any criminal penalties which may be imposed by a court of law, the City Council may suspend a license for up to sixty (60) days, may revoke a license and/or may impose a civil fine on a licensee not to exceed two thousand dollars (\$2,000) for each violation on a finding that the license holder or its employee has failed to comply with a statute, rule, or ordinance relating to alcoholic beverages, non-intoxicating malt liquor or wine.

Section 2. Minimum Penalties.

In no event shall a penalty be less than:

- (a) for a first violation, the mandatory minimum penalty shall be the administrative penalty imposed pursuant to *[insert citation to General Provision of Administration ordinance provided just prior to this section of the document]*.

- (b) for a second violation in twelve (12) months the mandatory minimum penalty shall be the appropriate administrative penalty in (a) above, plus suspension of the liquor license for three (3) days.
- (c) for a third violation in twelve (12) months the mandatory minimum penalty shall be the appropriate administrative penalty in (a) above plus suspension of the liquor license for eighteen (18) days.

Section 3. Revocation or Suspension.

Revocation or suspension of a license by the Council shall be preceded by a public hearing in accordance with Minnesota Statute 340A.415. The City Council shall conduct the hearing. The hearing notice shall be given at least ten (10) days prior to the hearing, include notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

This ordinance shall take effect _____.

SAMPLE LIST OF ADMINISTRATIVE PENALTIES

(To be kept in City Manager’s office)

Alcohol Offense	Administrative Penalty
Liquor license violations	1st offense: \$250 2nd offense: \$500 3rd offense: \$750

MODEL II - Presumptive Civil Penalties

A. Purpose. The purpose of this Section is to establish a standard by which the City Council determines the amount of civil fines, length of license suspensions and the propriety of revocations, and shall apply to all premises licensed and individuals charged under this Chapter. These penalties are presumed to be appropriate for every case; however, the Council may deviate in an individual case where the Council finds that there exists substantial reasons making it more appropriate to deviate, such as, but not limited to, a licensee’s efforts in combination with the State or City to prevent the sale of alcohol to minors. When deviating from these standards, the Council will provide written findings that support the penalty selected.

B. Presumptive Penalties for Violations. The minimum penalties for convictions or violations must be presumed as follows (unless specified, numbers below indicate consecutive days’ suspension):

Type of Violation	Appearance			
	1st	2nd	3rd	4th
1. Commission of a felony related to the licensed activity.	Revocation	NA	NA	NA
2. Sale of alcoholic beverages while license is under suspension.	Revocation	NA	NA	NA
3. Sale/purchase of alcoholic beverages to/by under-age-	\$250	\$500 & 3-day suspension	\$750 & 18-day	Revocation

person.			suspension	
4. Sale of alcoholic beverages to obviously intoxicated person.	\$250	\$500 & 3-day suspension	\$750 & 18-day suspension	Revocation
5. After-hours sale of alcoholic beverages.	3	6	18	Revocation
6. After-hours display or consumption of alcoholic beverages.	3	6	18	Revocation
7. Refusal to allow City inspectors or Police admission to inspect premises.	5	10	Revocation	NA
8. Illegal gambling on premises.	3	6	18	Revocation
9. Failure to take reasonable steps to stop person from leaving premises with alcoholic beverages.	3	6	18	Revocation

Appendix C: Operation Checklist

The following is a step-by-step checklist for compliance checks operations.

Operation Plan/Checklist

- Determine type of compliance check
- Review existing ordinances
- Revise ordinances (optional)
- Make decisions regarding:
 - Type of alcohol to purchase
 - One vs. two officers
 - One vs. multiple buyers
 - Viewing the buyer(s)
 - Buyer compensation (paid vs. volunteer)
 - Immediate vs. delayed post-buy attempt contact
- Select sites to be checked
- Review plan with the Prosecuting Attorney and the city council/licensing authority
- Notify businesses
- Notify community
- Hire and train buyers
 - Advertise/recruit buyer applicants
 - Recruit and schedule age assessment panel members (optional)
 - Hold age assessment panel
 - Select and hire buyers based on results of assessment panel
 - Train buyers
- Logistics
 - Prepare site packets
 - Plan routes – establish target lists with specified criteria (random, region, etc.)
 - Schedule buyers and officer(s)
 - Obtain and document cash for purchases
- Implement the compliance check according to protocol
- Complete reports and refer to appropriate authority for criminal or administrative charges
- Send letters of congratulations/thanks to businesses/sellers who did not sell
- Issue press releases

Appendix D: Sample Notice Letter

Date

Business Name
Address
City, State, Zip

Dear Business Owner:

The *Anytown* Police Department will begin (continue) to use compliance checks to enforce liquor sales laws in *Anytown, State*. We believe that helping you to avoid law violations, such as selling alcohol to underage people, will help us to avoid the problems that come with underage drinking. It is less expensive and easier to prevent youth access to alcohol than to investigate the motor vehicle crashes, fights, and other crime that underage drinking promotes. Over one-third of injury motor vehicle crashes involve drivers who had been drinking alcohol. Communities that have reduced the availability of alcohol to underage drinkers have experienced fewer crashes and fewer crimes.

Underage young adults will come into your business during the next few months to try to buy alcoholic beverages. Police officers will be working with these youths. Staff caught selling alcohol to underage buyers will be referred to the Prosecuting Attorney for criminal prosecution. Businesses where sales to underage buyers occur will be referred to the licensing authority for administrative action. Reports on compliance check operations become public data under *State* law, meaning that the identity of businesses checked and the outcome of each check can be obtained and published by the news media. We want your staff to refuse alcohol sales to our underage buyers. We can offer the following tools to help ensure that your staff knows the law:

- Copies of the Valid ID book (photo examples of proper IDs) can be obtained from most alcohol distributors or from commercial vendors including the Drivers License Guide Company (1-800-227-8827).
- At your request, we can send a patrol officer to your establishment to give a 10-15 minute informational talk on alcohol sales laws.
- Contact your insurance company or alcohol distributor; they may provide training guides, signs, or information on training programs available in your area.

Selling alcohol is a legitimate business that plays a valid role in our community. We pride ourselves in being a friendly and pro-active police department. Selling alcohol is a privilege that has very specific responsibilities attached to it. We only ask that you fulfill those responsibilities. This is our request for cooperation in a necessary effort by our community to reduce the availability of alcohol to our youth. Work with us to ensure your business' compliance with underage sales laws.

If you would like further information, please call Chief (*name*) at (*phone number*).

Yours in safety,

Chief (*insert name*)

Appendix E: Responsible Beverage Service Training

Businesses that seek a comprehensive responsible beverage service training program can refer to the commercial providers listed below. Most state Alcohol Beverage Control (ABC) agencies also maintain information on available training. Encourage businesses to have their employees go through one of these programs. Some programs are provided as part of membership in beverage associations. Businesses that have their staff trained may receive insurance discounts that are greater than the cost of the training, including staff wages.

Law enforcement officials may offer limited liquor law compliance information to establishment staff by sending a representative of the department to the business for a 15 to 20 minute “stop & talk” on liquor laws and compliance. By helping businesses stay in compliance, business owners may be more supportive of the compliance check operation when prosecutions and administrative sanctions begin. See Appendix G for information to discuss with establishment staff.

National Training Services

TIPS (Training for Intervention Procedures)
Health Communications, Inc.
1410 Key Blvd. Suite 700 Arlington, VA 22209
1-800-GET-TIPS or 1-800-438-8477
<http://www.gettips.com/>

TAM (Techniques of Alcohol Management)
c/o National Hospitality Institute
920 N. Fairview Ave.
Lansing, MI 48912
1-800-292-2896 ext 105
Email: TAMinfo@mlba.org
<http://www.tamusa.org/>

Appendix F: Prior Notice Receipt

Anytown, State, Police Department
Address
City, State, Zip
Phone Number

Record of Notice Served

Date: _____

Time: _____

Recipient Name (Print or affix mailing label): _____

On the date and time shown above I hand-delivered a written notice to the person listed above notifying them that a liquor law compliance check(s) will be conducted at their establishment. He/she was provided with a description of the liquor laws/ordinances and resource material to assist in training his/her staff to remain in compliance with these laws.

Officer Name (Print): _____

Signature: _____

Acknowledgement of Notice Received

The signature of the recipient is requested but not required.

I hereby acknowledge receipt of notice from the Anytown Police Department that liquor law compliance checks will be conducted at my establishment.

Signed: _____

Appendix G: “Stop & Talk” – Outline for Law Enforcement Officers

The *Anytown* Police Department will be conducting a series of alcohol law compliance checks in our jurisdiction. We have mailed notices to each business licensed to sell alcohol. The notices include an offer to have a patrol officer stop by the business to talk with the management or staff about alcohol laws. This document outlines information you may wish to discuss with staff during a “stop & talk.”

If your routine includes stopping for meals or breaks at businesses licensed to sell alcohol, we encourage you to take time to talk about the forthcoming compliance checks. The department’s goal is to increase compliance with the laws prohibiting the sale of alcohol to underage and intoxicated persons. Warn the store clerks and waitpersons with whom you interact daily to be careful when selling alcohol to avoid being caught selling to an underage buyer. Provide them with basic information on how to comply with these laws.

The information below lists suggestions on how to sell alcohol in compliance with the law and details *State* laws relating to the sale of alcoholic beverages.

How to Comply with Alcohol Laws

Provide guidance to store clerks and waitstaff on easy ways to check IDs. Encourage owners and managers to maintain calendars that show the current date and the corresponding year for the legal age to purchase alcohol.

Officers should encourage store staff or waitpersons to use law enforcement as a resource. Remind them that they can call an officer to the store anytime they believe someone is trying to illegally purchase alcohol.

The primary purpose of these talks is to make sure people selling alcohol know what their rights and responsibilities are under our laws. Once this has been accomplished it may help convince them to take the law seriously if you explain some of the reasons the law exists. Here are some good reasons why it is illegal for people under age 21 to purchase alcohol.

- When the drinking age was 18, many more youths were killed and injured in alcohol-related motor vehicle crashes
- People who start drinking at an early age drink more and more often later in life, are more likely to become addicted to alcohol, and have more alcohol-related health and employment problems
- Researchers report that when younger people drink they experience:
 - More unplanned teen pregnancies, sexually transmitted diseases, and unplanned sex.
 - More assaults, vandalism, and violence
 - Increased problems in school and work

Remind the clerks and waitpersons that checking IDs takes very little time compared to dealing with being caught in a compliance check sting or being involved in a lawsuit. “Stop & talks” are an important community policing tool that help you to keep alcohol businesses out of trouble when compliance checks test their businesses.

Provide each establishment with a summary of your state’s laws or jurisdiction’s ordinances related to alcohol sales. (Most state Alcohol Beverage Control agencies publish a law summary.)

Appendix H: Public Service Script

Public Service Announcement #1 *Radio Script (30 seconds)*

When people under 21 drink alcohol they put themselves and our community at risk. When underage people drink they:

- Get involved in more acts of violence as perpetrators and victims.
- Are more apt to commit vandalism.
- Have more car crashes and other accidents causing injury.

The Anytown Police Department wants the next generation to make a healthy and safe start. Help keep alcohol out of the hands of our youth.

Public Service Announcement #2 *Radio Script (30 seconds)*

Law Enforcement Alert:

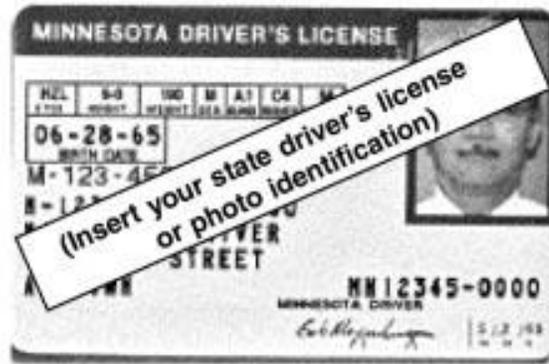
Are you a salesclerk, cashier, bartender, or waitperson? Beware! State law makes it a (insert appropriate crime classification; e.g., gross misdemeanor) to sell, furnish, or give alcohol to a person under 21. You can be fined up to (insert appropriate maximum fine amount) or sent to jail for up to (insert appropriate maximum imprisonment period).

Anytown police want the next generation to make a healthy and safe start—help keep alcohol out of the hands of our youth.

Appendix I: Sample Posters

don't be offended...

we card everyone



**who looks
under
30**

SPECIAL ALCOHOL PRICING

FOR THOSE UNDER 21

ATTEMPTING TO PURCHASE ALCOHOL:

Fine up to \$700.00

(or up to 90 days in jail).

(insert local penalties)

ATTENTION CASHIERS!

An underage person who tries to buy alcohol in our establishment is:

TRYING TO GET YOU ARRESTED.

A gross misdemeanor can get you a \$3000 fine or up to one year in jail. Most people pay a fine of \$200 to \$500. *(Insert your state's penalties).*

TRYING TO GET YOU FIRED.

We terminate employees who fail to card customers who appear under 30 years of age.

PUTTING THEMSELVES AT RISK.

Underage drinking is related to unintentional injuries, unplanned pregnancy, violence and death.

Appendix J: Sample Print Advertisements

DO YOU SELL OR PROVIDE ALCOHOL
TO UNDERAGE PEOPLE?

BEWARE

- It is a gross misdemeanor to provide alcohol to an underage person outside of the home.
- Your police department cares about our youth and strictly enforces the law.
- Store cashiers, and waitpersons, and anyone who buys alcohol for an underage person may pay up to \$3,000 in fines and be sentenced to up to one year in jail.

Remember, if an underage person asks you to sell him or her alcohol, call your local law enforcement agency.

(Insert local penalties)

LIQUOR

in the hands of youth

IS NO LAUGHING MATTER

Many of the leading causes of death among teenagers are related to alcohol use. These include:

- car crashes
- drownings and other injuries
- violence

If you suspect a customer is underage and is attempting to buy alcohol from you, call your local law enforcement agency.

Appendix K: Buyer Age Appraisal

Conducting an “Apparent Age” appraisal of potential buyers will provide:

- Strong evidence that a “reasonable person” would consider the buyer to be under age 21.
- An opportunity for community groups or leaders to be involved in the compliance check operations, which will promote positive community relations.
- An opportunity to interview and assess prospective buyer’s “court presence” and utility as a witness.

We recommend assembling a panel of qualified “reasonable people” to do an assessment of the age of youths being considered as buyers. Appropriate panel members may include schoolteachers, guidance counselors, doctors, nurses, youth counselors, attorneys, and other underage youth. Select citizens who routinely deal with young people. Store clerks or citizens engaged in the business of alcohol sales should be used only if they are not from the jurisdiction to avoid suggestions of “tipping off” or favoring any businesses. An ideal panel size is from 5 to 7 members.

Instruct buyers to come to the age assessment dressed in jeans, T-shirts, or sweatshirts. Advise them to select clothes similar to those they will wear when conducting compliance checks, and, if necessary, when testifying in court. Females should be advised to wear little or no makeup and to avoid wearing jewelry. Men should be clean shaven.

Have the panel and the applicants report to one site, but in separate rooms. Once the panel is assembled give each member an age assessment sheet (see below). Have each buyer candidate, and ideally, at least one clearly overage and one clearly underage (15-16 year old) youth, enter the panel room one by one, make one short statement, and then leave the room. The duration and character of the panel exposure to the buyer candidate should mimic the circumstances of a typical alcohol sale. If your compliance check operation will include on-premise restaurants and bars with typical low lighting conditions, consider holding the panel in a room where low lighting levels can be established. The buyer applicants can give their name or be identified by number. The panel members will fill in a rating sheet that identifies each buyer candidate’s “apparent age.” An ideal outcome will result in some buyer candidates being assessed at age 18 or 19 by the entire panel. In any event choose buyers judged to be 18 or 19 by the most members of the panel, and avoid hiring buyers judged to be very young (13-16) or very old (21-23) by any panel members.

Review this procedure with your prosecutor. He or she may wish to set the limits on the apparent age of buyers employed in your jurisdiction (e.g., hire only buyers who are rated by 80% of the age assessment panel to be 18 or 19 years old.)

Age Rating Sheet

Visual age assessment (Please circle only one number)

Panel member name:

Applicant

#1	13	14	15	16	17	18	19	20	21	22	23+
#2	13	14	15	16	17	18	19	20	21	22	23+
#3	13	14	15	16	17	18	19	20	21	22	23+
#4	13	14	15	16	17	18	19	20	21	22	23+
#5	13	14	15	16	17	18	19	20	21	22	23+
#6	13	14	15	16	17	18	19	20	21	22	23+
#7	13	14	15	16	17	18	19	20	21	22	23+
#8	13	14	15	16	17	18	19	20	21	22	23+
#9	13	14	15	16	17	18	19	20	21	22	23+
#10	13	14	15	16	17	18	19	20	21	22	23+
#11	13	14	15	16	17	18	19	20	21	22	23+
#12	13	14	15	16	17	18	19	20	21	22	23+
#13	13	14	15	16	17	18	19	20	21	22	23+
#14	13	14	15	16	17	18	19	20	21	22	23+
#15	13	14	15	16	17	18	19	20	21	22	23+

Appendix L: Buyer Recruitment Flyer

NEEDED! UNDERAGE BUYERS FOR ALCOHOL COMPLIANCE CHECKS

Alcohol products in the hands of underage youth pose a serious threat to the public safety and public health of our community. The (*Law Enforcement Agency*) is committed to upholding *State* law and local ordinances that appropriately prohibit access to these products. We want your help in this important law enforcement effort.

If you are considering a career in law enforcement, want to play a role in promoting public safety and public health in our community, or just want to help law enforcement with crime prevention, consider becoming a “buyer” for our compliance check operation.

WHAT YOU WILL DO:

You will enter businesses licensed to sell alcohol — convenience stores, bars, restaurants, etc. — to try to purchase alcohol. Law enforcement officers will work with you. If an illegal sale occurs, the individual who sells to you and/or the business that person represents may be brought into criminal court or an administrative hearing. You may be needed to testify at any trials or hearings to explain what you did and said during the compliance check.

Participating in compliance check operations will give you a unique opportunity to experience law enforcement work. We plan to check approximately (*insert number*) businesses in our jurisdiction to insure that they are complying with the law. Each buyer will need to work approximately *X* shifts at *X* hours each. You will need to attend a screening and training session to be held (*date*), which will last no more than three hours. Buyers will need to be available to make court or hearing appearances for up to six months after the last compliance check.

IF YOU ARE INTERESTED:

Call Officer (*name*) at (*phone #*) to discuss your qualifications and, if appropriate, make arrangements for you to attend the screening and training session.

On (*date*) we will screen applicants and select buyers. Your “apparent age,” how old you look, will be the major factor in the selection process. Those who are not selected are usually screened out because they look too old or too young. Selected applicants will then be trained. Scheduling for the actual compliance checks will be done during the training process.

Appendix M: Buyer Recruitment Advertisement

Opportunity for Law Enforcement Experience

Are you age 18 or 19 and look your age?

Are you considering a career in law enforcement?

The *Anytown* Law Enforcement Agency needs civilians (volunteers) to participate in a liquor law enforcement compliance check operation as underage buyers.

Call (name) at (phone number) for more information.

Appendix N: Buyer Training

Buyer training should cover the buy process, report writing, and information on being a witness for criminal or administrative hearings. Give the buyer a general description of how the compliance check operation will run. If criminal complaints or administrative sanctions will be sought, explain the criminal court and licensing sanction processes. Insure that the buyer understands that they may be called upon in the future to be a witness, that they could be deposed, and may have to testify in public before a judge, jury, or city council regarding the particular details of a compliance check. The purpose of this instruction is both to insure that the buyer understands the full character of the task they are agreeing to perform and to instill an appreciation for the seriousness of conducting compliance checks.

GIVE BUYERS THE FOLLOWING INSTRUCTIONS:

General Information

Dress Requirements:

- Report for duty in casual attire (jeans and T-shirt/sweatshirt). Do not dress up.
 - Males: clean shaven and wear little or no jewelry.
 - Females: wear little or no makeup and little or no jewelry.
- Do not carry purse or bag into establishment (If using the “no ID” protocol, buyer will carry no ID. The officer(s) will hold the buyer’s driver’s license or other ID).
- Only carry the cash issued to the buyer for the purchase attempt.

Alcohol Consumption:

Buyers shall not consume any alcohol under any circumstances. Use of buyers who do have a history of prior illegal alcohol or false ID use should be cleared with the local prosecutor prior to the compliance check. The professionalism of the compliance check operations and the buyer’s credibility as a witness could be severely damaged if evidence arises that he or she consumes alcohol.

Pre-screen buyers to insure that they have not previously illegally consumed or purchased alcohol. Explain the legal system and the buyer’s potential role as a witness. Should any case go to court or administrative hearing, attorneys representing the seller/server/business will attempt to challenge the credibility of the buyer. Defense attorneys will question the buyer’s prior involvement in illegal alcohol sales, purchases, consumption, or the use of false identification. Stress that these questions must be answered truthfully under oath. If the buyer has engaged in any of the illegal activities, someone else likely knows about it and defense attorneys may locate those people for use in impeaching the buyer. Explain to the buyers that perjury on the stand is a much more serious offense than illegal alcohol sales.

Scheduling:

Typical scheduling will involve one or more officers working with a team of two buyers. Usually buyers will alternate from site to site at off-premise establishments and will enter as two friends at on-premise establishments. Some communities with few sites to check or limited resources will schedule one buyer to work alone with one officer.

Pre-Operation:

- Officer will conduct a cursory search of the buyers (pockets inside out, etc.) to document that the buyers are not carrying cash other than the buy money issued at each site and that they do not have IDs with them.
- Officer will photograph buyers at the beginning of each day of the compliance check operation.
- Some departments do Preliminary Breath Tests.

Entrapment:

“Entrapment is the conception and planning of an offense by an officer, and his procurement of its commission by one who would not have perpetrated it except for the trickery, persuasion, or fraud of the officer.” (*Sorrells v. United States*; 287 U.S. 435, (1932)). Compliance checks are broadly recognized as not constituting entrapment. However, any actions by a buyer that could be seen as persuading someone who would not normally commit a crime to do so, could be challenged as entrapment. An example of such improper conduct would be offering the seller/server a \$10 bribe to make the sale. It is important that law enforcement personnel who conduct buyer training give buyers clear instructions about what can and what should not be said during a purchase attempt.

General Procedures:

Ideally the buyer will say nothing (off-premise) or simply place the order (on-premise). The less a buyer says during a compliance check the easier testimony and report writing will be. Buyers should not initiate any conversation except what is necessary to order. A buyer does not need to ask for a receipt, but if one is offered should take it and give it to the officers to tag as evidence. Also, saying little to the seller/server will help counter arguments that the buyer coerced or enticed the seller into illegal activity. A short standard speech from the buyer also keeps the treatment of all sellers/servers and businesses uniform. The buyer should, however, be instructed to act as a normal person would. If the clerk comments on the weather, the buyer should make an appropriate response.

If a buyer enters an establishment and recognizes the clerk, waitperson, or bartender as someone they know, the buyer should attempt to go to a different cash register or area of the bar/restaurant if practical. If this is not practical, or if another customer at the site is someone the buyer knows (uncle, teacher, neighbor, priest, etc.) and the buyer does not want to be seen purchasing alcohol then she or he should return to the car. The second team buyer can go in or the officer can check the site at a later date with a different buyer team.

At almost all purchase attempts an officer will observe the buy and will also identify the seller. However, in some cases it will be necessary for the buyer to return to the store with the law enforcement officer to identify the clerk, then return to the car while the officer completes the violator interview.

PURCHASE ATTEMPT:

The specific buy procedure will vary depending on the availability of a plainclothes officer as an observer inside the business.

OFF-PREMISE COMPLIANCE CHECKS

Before starting the first check the officer(s) will review the procedure and will identify a major brand of beer to be purchased. To keep checks the same for all sites checked, purchase the same type of beer at each site. If they don't stock the selected type, pick the most similar type available.

Where feasible the officer will monitor the establishment with the buyer. Avoid initiating the buy attempt during a very busy period. Generally avoid extenuating circumstances to deny the server or seller the defense of extraordinary circumstances.

- 1) Plainclothes officer enters the establishment and positions himself/herself where purchase can be observed.
- 2) Buyer enters the establishment and goes directly to the beer cooler.
- 3) Buyer selects a six-pack of a pre-determined major brand of beer.
- 4) Buyer observes the sales counter and determines if anything unusual is occurring. (If there is an unusual line at the counter, a dispute in progress between the clerk and a customer, or any other unusual situation, buyer waits briefly for the situation to clear; if situation hasn't cleared within five minutes, buyer leaves without making a buy attempt.)
- 5) Buyer selects the least busy checkout (if business has more than one salesclerk on duty) and places beer on counter. If the wait is the same at all checkouts, buyer selects the checkout staffed by the youngest looking person.

If asked for age or date of birth:

- 6) Buyer answers truthfully by giving his/her real date of birth. This tests the seller's ability to calculate age from date of birth. If a seller asks how old that makes the buyer the buyer should honestly state their age in years.

If asked for an ID: (no ID protocol)

- 7) Buyer states that he or she is not carrying an ID.

If seller hesitates, or refuses sale:

- 8) Buyer states "My license is out in the car" or "I left my license at home" or some alternative excuse for not having the license with him or her. Vary excuses from wave to wave so that a standard line does not become recognized as a sign that the young person is a police buyer. Buyer makes no additional statements to encourage a sale.

If seller still refuses sale, or requests that buyer get ID in car:

- 9) Buyer says “I will get my ID and come back” and exits establishment.

If seller agrees to sale:

- 10) Buyer purchases beer. Buyer accepts receipt if offered, but does not request one.
- 11) Buyer exits establishment, staying with one of the officers at all times. Agencies using the immediate post-buy contact procedure may have the officer intervene once the sale is completed. In such circumstances the officer will direct the buyer. Typically the buyer will go to the car and complete reports while the inside officer interviews the seller.
- 12) Buyer fills out buyer report form in the car (see sample buyer’s report below).

ON-PREMISE COMPLIANCE CHECKS

- 1) The plainclothes officer enters the establishment and positions him/herself where a purchase can be observed.
- 2) The buyer sits at a table in a well-lit area, near the exit door, and if practical in sight of the observing officer.
- 3) The buy team places an order appropriate to the establishment.
 - At a stand-alone bar, buyer places an order for a common brand of bottled beer. The second team member should order a non-alcoholic drink (soda, ice-tea, coffee).
 - At a restaurant, buyer places order for an inexpensive appetizer and a common brand of bottled beer (if beer is available only on tap, buyer orders a glass). The second team member should order a nonalcoholic drink (soda, ice-tea, coffee).

If asked for age or date of birth:

- 4) Buyer answers truthfully by giving his/her real date of birth. This tests the seller’s ability to calculate age from date of birth. If a seller asks how old that makes the buyer, the buyer should honestly state his or her age in years.

If asked for an ID: (no ID protocol)

- 5) Buyer states that he or she is not carrying an ID.

If seller hesitates, or refuses sale:

- 6) Buyers states “My license is out in the car” or “I left my license at home” or some alternative excuse for not having the license with him or her. Vary excuses from wave to wave so that a standard line does not become recognized as a sign that the young person is a police buyer. Buyer makes no additional statements to encourage a sale.

If seller refuses sale, or requests buyer get ID in car:

- 7) Buyer says “I don’t want the food either” and exits establishment (or if a plainclothes officer is inside observing, waits for him/her to approach).

If seller agrees to sale:

- 8) Buyer purchases beer and appetizer.
 - a. *Immediate post-buy contact procedure.* Buyer awaits the arrival of the on-site plainclothes officer who will take charge of preserving the alcohol sample and interview the seller. Typically the officer will direct the buy team to go to the car and complete reports.
 - b. *Delayed post-buy procedure.* The buy team will not consume any alcohol! After alcohol and food has been served, the buy team will observe site staff. When no site staff is observing, the buyer will pour a sample of the alcohol into an evidence bottle. A team member should hide the evidence bottle in a pocket, so its removal from the establishment will not be detected. The remaining alcohol will be left at the table. The team pays for the meal and drinks and leaves. (Some departments will have buyers leave early—as soon as practical after being served alcohol—leaving payment for all food and drinks ordered on the table.)
- 9) Buyer(s) notes the time and a careful description of the server/seller to put on reports.
- 10) Buyer exits establishment before or in the company of the plainclothes officer.
- 11) Buyer fills out buyer report form in the car (see sample buyer's report on next page).

BUYER REPORT

Any Town/County Law Enforcement Agency _____

Date of Attempt: __/__/__ Time in: _____ Time out: _____
Case No. _____

Name of Business _____

Address _____

My name is _____. I am years ____ of age.

My date of birth is: __/__/__. I was born in: _____.
(county), (state).

PURCHASE

I purchased, (describe alcohol purchased), an alcoholic beverage and paid \$_____ to the seller described below.

I was () was not () questioned as to my age.

I was () was not () asked for an ID.

REFUSAL TO SELL

I attempted to purchase (describe alcohol taken to the counter), an alcoholic beverage, but the seller:

() refused to sell to me.

() asked for an ID and when I gave my excuse for not having an ID refused to sell to me.

() asked my age and when I said my true age refused to sell to me.

SELLER DESCRIPTION

The clerk/cashier/waitperson/bartender is: (Describe)

Male ___ Female ___ Hair color _____ Shirt/Top color _____

Trousers/dress/bottom color _____ Height _____ Weight _____ Age _____

Other (ID/name badge, etc.) _____

At the time of the purchase I did not possess nor did I display any form of written identification.

I have read the above statement and all facts are true and correct.

Print Name _____ Signature _____
Date _____

Witnessing Officer:

Print Name _____ Signature _____
Date _____

Appendix O: Site Packet Checklist

Report forms. Complete reports for both successes (refusal to sell) and failures (sales)

- Observing officer's report. (If an inside observing officer is used.)
- Buyer's report - pens & clip board for ease of writing reports in the car between sites
- Outside officer's report

Evidence Tags with lines for date, time, location, contents, name of purchaser, officer signature

- One tag for the alcohol sold
- One tag for the cash used to purchase alcohol and seized as evidence

Evidence containers

- Plastic food wrap and rubber bands/evidence tape to seal the top of bottles or glasses
- Evidence bottles if samples of mixed drinks or glasses of beer are to be seized
- Cooler or other device to hold containers upright conveniently

Camera

- Photograph the buyer before the operation starts
- Some agencies photograph the sellers who are to be charged to aid in court identification

Citations/summons if immediate citation is planned (generally requires the use of an inside observer officer to meet the standard for misdemeanor arrest without a warrant).

Buy cash. Document the serial number for evidentiary purposes and to simplify recovery from the cash register.

Copy of the notice letter to be issued to seller or server and manager in either success or failure, to remind sellers and business owners that notice and warning were given.

Appendix P: Sample Congratulations Letters

To Licensee

Date

Liquor Licensee
Liquor Licensee Business
Address
City, State, Zip

Dear Licensee,

Congratulations and thank you for your efforts leading to your recent success in passing the alcohol sales compliance check conducted at your business. Hiring, training, and supervising responsible staff is essential to keeping your business in compliance with the laws and ordinances regulating the sale of alcohol. We appreciate the work you have put into this important part of your business. Responsible alcohol sales businesses are a respected part of our business community and your efforts to help us keep alcohol out of the hands of youth are appreciated.

We will regularly use alcohol sales compliance checks as a tool in our efforts to keep the county (town/city) safe. By working together we can make a difference. Please pass the enclosed letter on to your employee who performed correctly during the compliance check. Feel free to contact us if we can better work with you.

Yours in Safety,

Chief or Sheriff

Encl.: Letter to employee

To Seller

Date

Employee First & Last Name
Liquor Licensee Business
Address
City, State, Zip Code

Dear (Seller),

Congratulations on your recent commendable performance during the alcohol sales compliance check conducted at your workplace. Your decision to refuse alcohol sales to our underage buyer reflects your commitment to being a responsible member of the alcohol sales industry. The extra time you took to ensure that your customer was of legal age saved you from facing criminal charges and several hundred dollars in fines. As you likely know, the penalties for illegally providing alcohol to youth, including selling alcohol, can be as high as *(insert maximum fine amount)* and *(insert maximum jail sentence)* in jail. Refusing to sell alcohol to underage customers is the “right thing” to do; it is also easier and cheaper for you in the long run.

Your law enforcement agency conducts alcohol sales compliance checks because we care about youth access to alcohol. When underage people drink they have more car crashes, get involved in violence and petty crime more often, and are more apt to get pregnant or contract a sexually transmitted disease. Your efforts to keep alcohol out of the hands of underage drinkers are helping keep our community healthy and safe. Thanks for doing the right thing and keep up the good work!

Yours in Safety,

Chief/Sheriff

Appendix Q: Post Buy News Release

Release: (Date)

Contact: (Name, Phone #, Any Town/City/County Law Enforcement)

Alcohol sales law compliance checks were conducted between (dates) on (#) businesses licensed to sell alcoholic beverages. Working with plainclothes and uniformed officers, underage youths entered these businesses and attempted to illegally purchase alcoholic beverages. (Insert number) businesses refused to sell to our underage buyers. The efforts of these responsible business people are commended.

Regrettably, (#) of the businesses checked failed to comply with the law and sold to the underage buyers. These cases have been referred to (county/city attorney, county board/city council) for appropriate action.

Illegal alcohol use by underage persons contributes to crime, car crashes, injuries, and deaths. Law enforcement officers find that alcohol also has a role in many of the more frequent minor crimes and nuisances that degrade the quality of life in our community. Many noise complaints, vandalism, littering, and similar nuisances involve young people who have been drinking. Public health officials report that alcohol use and abuse is also connected with teenage pregnancy, sexually transmitted diseases, and other health problems. We have learned that the community and our youth are safer and healthier when they don't start using alcohol until after age 21. Providing alcohol to an underage person is a (*insert crime classification*) punishable by fines up to (*insert maximum fine amount*) and up to (*insert maximum jail time*) in jail. Typical offenders are fined several hundred dollars (*Cite local ordinance and its fine structure in place of this section if appropriate*).

Please help us keep the next generation safe, keep alcohol out of the hands of our youth.

Appendix R: Expert Testimony Guide

Try to get into evidence the following negative consequences of underage drinking: Alcohol, even in small quantities, affects the highest levels of reasoning in the mind first. Judgment is impaired, inhibitions are suppressed, and emotions come to the surface. These effects are why many adults include alcohol in social situations to ease conversation and relax internal barriers to personal interaction. Young people are just learning how to socialize: when to trust, when to discourage, when to pursue romantic or physical advances, when to take offense at challenges and when to respond to threats. Immature judgment is challenged by these decisions. Adding alcohol to the brain suppresses immature inhibitions and sets loose volatile emotions which often lead to the threats to public safety that alcohol sales laws are designed to prevent.

- Auto crashes continue to be the number one cause of untimely death of young adults.
- Vandalism often is committed by offenders under the influence of alcohol.
- Many sexual assaults and rapes involve both perpetrators and victims who have been drinking.
- Unprotected sexual activity that can lead to unplanned pregnancy or sexually transmitted diseases is often associated with alcohol consumption.
- Alcohol poisoning—drinking to extreme intoxication—can occur with inexperienced youthful drinkers. As alcohol levels in the blood increase it progresses to the parts of the brain that control basic involuntary actions such as breathing. Blocked airways or pneumonia from aspirated vomit and respiratory slowdown to the point of respiratory failure are the typical mechanisms of alcohol poisoning deaths.
- Impaired judgment leads to falls, drowning, and other injuries stemming from a combination of attempting risky activities and the reduced coordination and reaction time of a person under the influence of alcohol.
- There is increased risk of suicide among heavy drinking adolescents.

Beyond these relatively immediate effects of alcohol use, alcohol use by youth also affects their lives long-term.

- Research shows that people who start drinking after turning age 21 are at a lower risk for experiencing alcohol related consequences in adulthood.
- A large number of adult criminals have substance abuse problems and frequently commit crimes while under the influence of alcohol or drugs. Many alcohol counselors report that these conditions began during the criminal's youth, typically starting with drinking alcohol.

Drinking during developmental years increases the risk of developing an addiction, and the rate at which an addiction will occur. Evidence suggests that there can be a genetic predisposition to alcohol addiction, but these effects are small. The tendency to drink is effected more by environmental circumstances, particularly the ease of access to alcohol.

The body, particularly the parts of the brain involved in higher reasoning, develops at a fast rate during the first 20 years of life. While this development is occurring, alcohol addiction will similarly develop fast. Keeping alcohol out of the hands of our youth will give them a better chance to avoid addiction. As adults, the process of growth is slower, and the process of becoming addicted is slower. Adults have better judgment and more experience with which to understand the evolving cravings and urges. Alcohol has been shown to be a “gateway” drug. Using alcohol as a teen increases the risk of also using other illegal drugs.

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Appendix S: Other Issues & Strategies

Patrol Walk-Through

Uniformed patrol officers walk through alcohol sales establishments. They check the age identification of any individuals with alcohol who appear under the legal drinking age. Managers of bars report this strategy is very effective in keeping servers and bartenders in compliance with age verification policies. Jurisdictions wishing to initiate walk-throughs should work with owners and managers, provide advance notice before initiating the program, and keep the process low key.

Investigate the Source

Youth Access to Alcohol

Research on the sources of alcohol for underage youth suggests that in many close-knit communities, both inner-city and rural, some businesses regularly sell alcohol to youth “out the back door.” These flagrant violators of the law are not susceptible to typical compliance check operations since they sell only to kids they know and the transaction usually does not involve an over-the-counter sale.

Apply community policing tactics to prevent this type of youth access to alcohol. Community policing helps keep law enforcement in touch with the people they serve. When officers establish close relationships within neighborhoods, people “in the know” will report which businesses sell “out the back door.” Encourage officers to include locating sources of alcohol for youth in their community interactions. Make investigating the source of the alcohol a standard part of any investigation of crime in which alcohol is a contributing or aggravating cause.

Intoxicated Persons Involved in Crime

Include alcohol involvement and alcohol sources as standard questions on investigation and arrest reports. Law enforcement routinely tracks the relationship between motor vehicle crashes and locations. Speed limits, sign sizes, or sign locations are changed when crash patterns suggest a problem. Use a similar approach to track the role of intoxicated people involved in crimes. Add sections to report systems that ask if illegally purchased alcohol or intoxication played a role in the event under investigation. If the answer is yes, have a section for identifying where the alcohol was consumed or purchased. If a liquor licensee is identified as the source and the sale was illegal document the business’ name. The vast majority of liquor licensees are upstanding businesses that provide professional hospitality services. A few establishments abuse the privilege of the license and contribute to crime in the community. Tracking the sources of alcohol consumed by people involved in crashes and crimes will help to identify those businesses that abuse the privilege. These data will also contribute to the overall understanding of the relationship between alcohol and crime.

Send Warnings to Businesses Identified as Sources of Alcohol

Many responsible liquor licensees are unaware of illegal sales that occur in their establishments. Warnings are the least expensive tool for deterring illegal sales. Notify

the licensees when they have been identified as the source of alcohol by people involved in crashes or crime (see sample notice letter below). The potential for intoxicated subjects involved in crime misidentifying the source of their alcohol is a legitimate concern. However, a friendly non-threatening alert that an unverified report has been received can help a liquor licensee stay in compliance through internal review. Such warnings send the message that the law enforcement agency considers illegal alcohol sales a serious matter. The warning letter also shows that law enforcement's first goal is prevention of crime, not arrests and convictions.

SAMPLE WARNING LETTER:

Liquor Licensee
Address
City, State, Zip Code

RE: Crime Prevention

Dear Business Owner:

The *Anytown* law enforcement agency prefers to prevent crime, rather than perform investigations and make arrests. Prevention of crime is easy, cost effective, and leaves no innocent victims. Alcohol plays a legitimate role in our society; however, excessive and illegal use of alcohol contributes significantly to crime in our community. As a routine part of our investigations of incidents involving an intoxicated or underage individual possessing alcohol, we attempt to determine how the alcohol was obtained. If the alcohol was illegally obtained (i.e., sold to an underage or intoxicated person) we seek to identify the source of the alcohol. Unless corroborated by other witnesses or evidence, we consider these reports unverified and recognize that they may or may not be accurate. Circumstances and limited investigatory resources make it inappropriate or impractical to further investigate all these reports. Typically, we investigate further only when a particular source is named in several different cases.

We consider most liquor licensees to be responsible and contributing members of our community. In an effort to help you keep track of what may be going on in your business we are sending this letter. We want to alert you that **your business was recently identified as a source of alcohol, allegedly illegally sold**. At this time, we do not intend to pursue further investigation of this unverified report. We want you to know about it so you can evaluate the practices of your staff. We trust you to determine if a problem exists at your business. We encourage liquor licensees to have written policies that clearly describe employee's responsibilities under law when serving or selling alcohol. Give every employee a copy of your policies. We also support regular training of staff. Keep samples of valid forms of identification at the bar or cash register, and use other tactics that help keep staff alert and your business in compliance with the law. If we can assist you in any way with staff training please contact (*name*).

The unverified report of an allegedly illegal alcohol sale involved:

- An underage buyer
- An obviously intoxicated buyer

Buyer gender: __Male __Female Buyer approximate age: _____
Date and approximate time of sale: _____ a.m./p.m. on _____ (*date*)

In accordance with data privacy policies the identity of the reporter or more specific information is not available at this time. The information above is for your assistance in evaluating the need to assess your employees' practices. If you are confident that the report is false, feel free to take no further action. At this time our agency plans no further action on this matter.

Sincerely yours,

Chief Law Enforcement Officer

Appendix T: Sample Parental and Participant Consent Forms

Parental Consent

Parental consent for youth who serve as buyers in a compliance check operation is generally not required when the youth is age 18 or older. However, many agencies elect to require parental consent for youthful buyers who live at home with their parents. Parental consent in this circumstance is a community relations tool and is respectful of the important role parents continue to play in the lives of young adults who reside with them. Many agencies combine recruitment and training of tobacco and alcohol buyers and simplify their procedures by using parental consent forms that are appropriate for both the tobacco buyers (who are typically age 15 or 16) and the young adult alcohol buyers. A general consent form merely documents the parent's awareness of and agreement with the youth's involvement. Formal legal waivers of liability claims are also in general use. A waiver of claims is a formal legal document, the language for which may vary depending on state law. Departments needing such forms should consult their legal counsel. A model of a general consent form is provided on the following page.

Participant Consent Form

Many agencies ask youth buyers to complete a participant consent form. A participant consent form confirms the agreement to serve as a buyer and defines expectations and limitations. This tool reinforces the importance of (1) the buyer's compliance with alcohol laws, (2) maintenance of confidentiality of the plan and evidence, and (3) acknowledgment of training. A model of a Youth Participant Consent Form is provided following the sample parental consent form.

Sample Parental Consent Form

Date

Dear Parent,

Youth consumption of alcohol is a serious problem in our society. Enclosed is a summary of evidence on health and public safety problems associated with underage drinking. Limiting the supply of alcohol that is accessible by underage youth is one important tool in a comprehensive program of deterring underage drinking. Youth who are of age, friends, and relatives—so-called social providers—are one source of alcohol for underage youth. Licensed liquor stores, convenience stores, bars and restaurants are another source. The experience of law enforcement around the country and University research suggest that in communities without active enforcement programs, youth are served alcohol without ID at approximately fifty percent or more of licensed establishments. The most effective police strategies for detecting and deterring irresponsible adults who sell alcohol to underage youth require the use of underage people as buyers.

Your child has expressed an interest in serving as a youthful buyer and we seek your consent for his/her participation. In compliance checks and shoulder-tap operations the youthful buyer will make an attempt to purchase alcohol from a commercial or social provider. If alcohol is sold illegally, law enforcement action is taken against the seller and, when appropriate, administrative action is taken against the liquor licensee.

Youth serving as buyers are under constant supervision throughout these operations. While most cases do not involve public trials or hearings, it is possible that the youth buyer may need to appear as a witness at some future date.

Youth buyers generally find the experience of working with law enforcement exciting and educational. Serving as a youth buyer is a public service that many youth have found beneficial when listed on college or employment applications. Serving as a youth buyer is particularly appropriate for anyone contemplating a career in law, law enforcement, or public health.

Your signature on this form indicates your consent for your son or daughter to serve as a youth buyer for law enforcement operations directed at alcohol age-of-sale laws. Participation as a youth buyer is voluntary. Your son or daughter has the right to withdraw at any time. Please sign and return this form.

I hereby give my consent for my son/daughter, _____, to serve as a youth buyer for the (Enter name of your law enforcement agency.)

Signature of Parent or Guardian

Date

Yours in Safety,

Chief or Sheriff

Sample Youth Participant Consent Form

Youth Name _____ Date of Birth _____

Date of Birth documentation: (require youth buyer to produce and attach copy of some legal proof of age): birth certificate _____ passport _____ driver's license _____

Instructions: Carefully read each line below. Please ask questions about anything you do not completely understand. Your signature indicates that you understand and are willing to abide by all the terms of this agreement.

- I understand that the purpose of the compliance check operation is to assess the compliance with age-of-sale laws by attempting to purchase alcohol.
- I understand and agree that I am not to pursue or participate in any operation relating to alleged alcohol sales violations unless I am under the direct supervision of a law enforcement officer or licensing inspection official.
- I understand that specific information about the unannounced compliance checks is confidential and agree that I will not discuss plans, dates, times, outcomes, or details of specific inspections, including but not limited to retail locations, retail staff making sales to underage buyers, nor the identity or description of law enforcement personnel working in plain clothes, unless directed by officials of the law enforcement agency or pursuant to legal proceedings.
- I agree not to violate any laws or commit any crimes while participating in unannounced compliance checks.
- I understand that if I violate any laws, except the one I am granted immunity from, that I may be responsible for those violations.
- I agree to relinquish all alcohol products purchased as the result of these compliance checks, any change and all unused money to the adult supervisor.
- I understand that the objective of compliance checks is to test compliance a successful compliance check is one where the seller/provider refuses to provide alcohol, acting in compliance with the law. The goal of a buyer is to assist law enforcement in conducting a fair test. The buyer must not coerce the clerk, waitperson, or bartender into selling.
- I agree to be completely truthful when reporting what happened during each compliance check.
- I have participated in training provided by (Enter name of law enforcement agency) and I agree to adhere to the protocol explained in that training.

Youth's Signature _____ Date _____

Witness _____ Date _____