

Policy Summary

Compliance Check Protocols

This policy summary is excerpted from:

The December 2015 Report to Congress on the Prevention and Reduction of Underage Drinking

Compliance Check Protocols

Policy Description

Compliance checks involve an underage operative (a “decoy”) working with either local law enforcement officials or agents from the state alcoholic beverage control (ABC) agency, who enters an alcohol retail establishment and attempts to purchase an alcoholic beverage from a server, bartender, or clerk. The protocols for these checks vary from state to state, but in general follow a similar outline. An underage person (allowable ages vary by state) serves as a decoy in the compliance check. Decoys are generally instructed to act and dress in an age-appropriate manner. The decoy enters an alcohol retail outlet to attempt to purchase a predetermined alcohol product (e.g., a six-pack of beer at an off-sale establishment or a mixed drink at an on-sales establishment). Typically, the decoy is observed by an undercover enforcement officer from a local police department or the state ABC agency. Audio and video recording equipment may also be used or required. State rules vary regarding a decoy’s use of legitimate identification cards (driver’s licenses, etc.), although a few states allow decoys to verbally exaggerate their age. If a purchase is made successfully, the establishment and the clerk or server may be subject to an administrative or criminal penalty.

Most, but not all, states permit law enforcement agencies to conduct compliance checks on a random basis. A few states permit them only when there is a basis for suspecting that a particular licensee has sold alcohol to a minor in the past. To ensure that state and local law enforcement agencies are following uniform procedures, most states have issued formal compliance check protocols or guidelines. If the protocols are not adhered to, then the administrative action against the licensee may be dismissed. The protocols are therefore designed to ensure that law enforcement actions are fair and reasonable and to provide guidelines to licensees for avoiding prosecution.

Compliance checks of off- and on-premise licensed alcohol retailers are an important community tool for reducing illegal alcohol sales to minors and promoting community normative change. The Institute of Medicine (IOM) 2003 report, *Reducing Underage Drinking: A Collective Responsibility*, calls for (a) regular, random compliance checks; (b) administrative penalties, including fines and license suspensions that increase with each offense; (c) enhanced media coverage for the purposes and results of compliance checks; and (d) training for alcohol retailers regarding their legal responsibility to avoid selling alcohol to underage youths.

Compliance checks have both educational and behavior change goals:

- Change or reinforce social norms that underage drinking is not acceptable by publicizing noncompliant retailers.
- Educate the community, including parents, educators, and policymakers, about the ready availability of alcohol to youth, which may not be considered a major issue.
- Increase alcohol retailers’ perception that violation of sales to minors laws will be detected and punished, creating a deterrent effect.

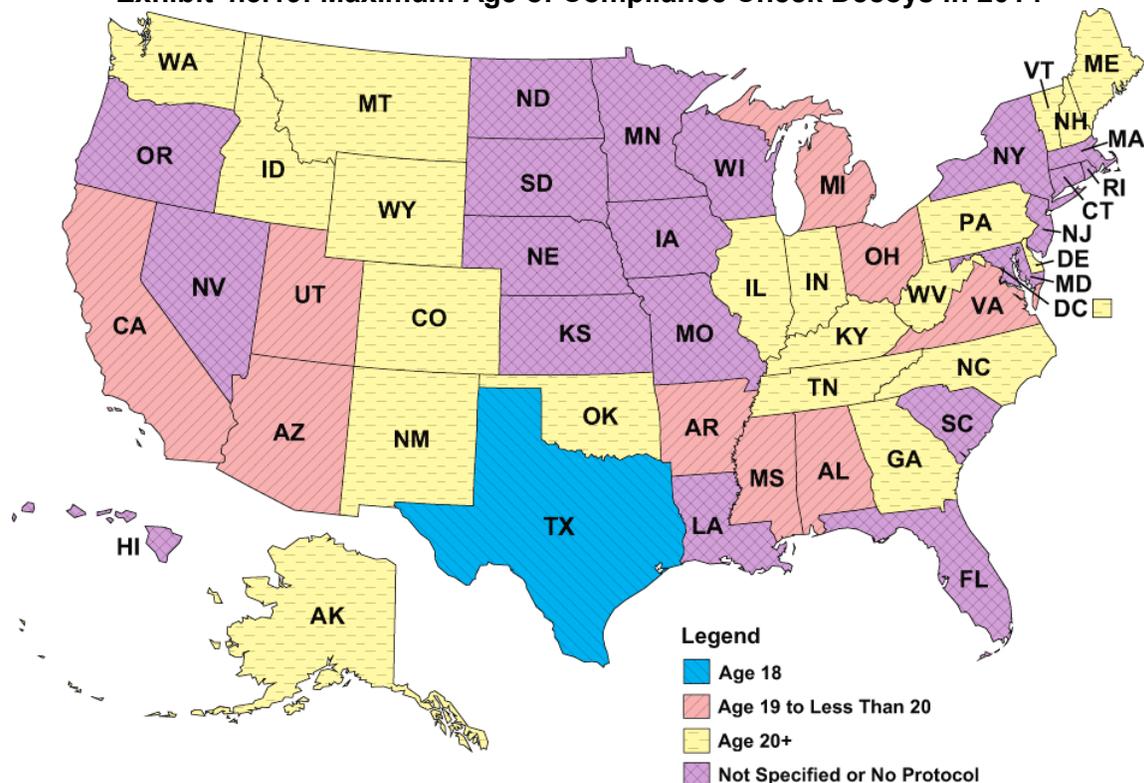
Status of Compliance Check Protocols

Data for this policy were coded from formal compliance check protocols or guidelines. A total of 32 states have formal, written protocols; the remaining states either do not have them or do not have them readily available to the public. Compliance check protocols are generally issued by the state police or the state ABC agency. These guidelines vary somewhat in specificity and

detail, possibly reflecting differences in the purposes of the checks and the evidentiary standards in each jurisdiction.

The maximum age of the decoy varies from 18 to 21 (only one state lists 21 as the maximum age), with the majority of states requiring that the maximum age of the decoy be 19 or 20 (see Exhibit 4.3.19). The minimum age of the decoy ranges from 15 to 18, with the majority of the states requiring the minimum age of the decoy to be 17 or 18. Twenty-nine jurisdictions have guidelines for the decoys' appearance (e.g., no facial hair on males, no makeup on females). These requirements vary widely by state. At least one state uses an age panel to ensure that the decoys appear underage. Two states allow decoys to verbally exaggerate their age. Decoy training is mandatory in 13 states. Fewer than one quarter of the states (nine) require decoys to have valid identification in their possession at the time of the check.

Exhibit 4.3.19: Maximum Age of Compliance Check Decoys in 2014



References and Further Information

Legal research and data collection for this topic are planned and managed by SAMHSA and conducted under contract by The CDM Group, Inc. To see variables for this policy, go to Appendix B. For further information and background, see:

Pacific Institute for Research and Evaluation. (2007). *Reducing alcohol sales to underage purchasers: A practical guide to compliance investigations*. Washington, DC: U.S.

Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.