

Policy Summary

Compliance Check Protocols

This policy summary is excerpted from:

The September 2016 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 agency (ABC)—who enters an alcohol retail establishment and attempts to purchase an alcoholic beverage from a server, bartender, or clerk. The protocols for these compliance 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. 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, an undercover enforcement officer from a local police department or the state ABC agency observes the decoy. Audio and video recording equipment may also be used or required. State rules vary regarding a decoy’s use of legitimate ID 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 the checks 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) 2004 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.
Decrease the likelihood that retailers will sell alcohol to minors, thereby reducing youth access to alcohol.

Numerous studies support the contribution of compliance checks to reducing underage access to alcohol. During the early to mid-1990s, before systematic compliance check programs were

widely implemented, studies indicated that underage buyers were able to purchase alcohol without showing age identification in 47 to 97 percent of attempts (Forster et al., 1994; Forster, Murray, Wolfson, & Wagenaar, 1995; Preusser & Williams, 1992; Wagenaar & Wolfson, 1995). Observed rates of compliance have increased since then, and several studies suggest that the use of compliance checks does lead to reductions in sales to underage buyers. For example, Grube (1997) demonstrated that outlets subject to compliance checks were about as half as likely to sell alcohol on a posttest purchase survey as outlets in the comparison sites. Similarly, in Concord, New Hampshire, sales to youth decreased from 28 percent to 10 percent after quarterly compliance checks (coupled with increased penalties and a media campaign) at 539 off-premise alcohol establishments (CDC, 2004). And in a large study in Minnesota, sales to youth were reduced immediately by 17 percent in alcohol establishments that experienced a check (Wagenaar, Toomey, & Erickson, 2005). Additional analyses also found that establishments situated near another neighborhood establishment that had been checked within the last 90 days were less likely to sell alcohol to young-appearing buyers, but that these effects decay rapidly over time (Erickson, Smolensi, Toomey, Carlin, & Wagenaar, 2013).

Status of Compliance Check Protocols

Data for this policy were coded from formal compliance check protocols or guidelines. A total of 33 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 19 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 20 (see Exhibit 4.3.19). The minimum age of the decoy ranges from 15 to 18, with the majority of states requiring the minimum age of the decoy to be 17 or 18. Twenty-nine jurisdictions have guidelines for the decoys' appearance (e.g., appropriately dressed for age, and no hats, excessive makeup, or facial hair). These requirements vary widely by state. At least one state uses an age panel to ensure that the decoys appear underage. Five states allow decoys to verbally exaggerate their age in some situations. Decoy training is mandatory in 13 states. Fewer than one third of the states (12) require decoys to have valid identification in their possession at the time of the check.

References and Further Information

Legal research and data collection for this topic are planned and managed by the Substance Abuse and Mental Health Services Administration (SAMHSA) and conducted under contract by The CDM Group, Inc. To see definitions of the variables for this policy, visit stopalcoholabuse.gov and go to Report to Congress, Supplemental Information, "Definitions of Variables." For further information and background, see:

Centers for Disease Control and Prevention. (2004). Enhanced enforcement of laws to prevent alcohol sales to underage persons—New Hampshire, 1999–2004. *Morbidity and Mortality Weekly Report*, 53(21), 452–454.

- Preusser, D. F., Williams, A. F., & Weinstein, H. B. (1994). Policing underage sales. *Journal of Safety Research*, *25*, 127–133.
- Wagenaar, A. C., Toomey, T. L., & Erickson, D. J. (2005). Preventing youth access to alcohol: Outcomes from a multi-community time-series trial. *Addiction*, *100*, 335–345.
- Wagenaar, A. C., & Wolfson, M. (1995). Deterring sales and provision of alcohol to minors: A study of enforcement in 295 counties in four states. *Public Health Report*, *110*, 419–427.