

2. Alcohol Compliance Checks

CSAP Primary Prevention Strategies

- Information dissemination
- Community-based process
- Environmental

Strategy

Alcohol compliance checks are a tool used by law enforcement to identify alcohol establishments that sell or serve alcohol to minors. Working in conjunction with law enforcement personnel, trained youth (usually between 16-19 years of age) attempt to purchase alcohol from retailers that possess a state license to sell or serve alcoholic beverages. Compliance checks are conducted as a way to enforce state laws and/or local ordinances related to serving or selling alcoholic beverages. Additionally, compliance checks create a mechanism to identify, warn and educate alcohol licensees that are in violation of alcohol sales and service laws in their state.

Considerations for Planning

Alcohol compliance checks cannot be done without the support of law enforcement professionals. Compliance checks are most effective when they are highly publicized, encouraged, conducted regularly and include consistent penalties to the seller, server and the licensed establishment. When considering this strategy, identify a long-term, consistent plan of conducting compliance checks that will help you establish a baseline and increase your overall success with the strategy over time. Identify a consistent way to document the results of compliance check efforts. Once the baseline is determined, focus on targeting problem vendors for training. Also, consider how vendor education or training can be incorporated into this strategy.

Key Terms

- 1. Alcohol licensee:** A business entity that has applied for a license to sell and/or serve alcoholic beverages at their place of business. Obtaining a license to sell/serve alcoholic beverages in any state must be approved by the state granting authority. Licenses are not free and all states limit the number of licenses within the state.
- 2. On-premise licensee:** A business that has a license to **serve** alcohol at their facility.
- 3. Off-premise licensee:** A business that has a license to **sell** alcohol at their facility.
- 4. On-/off-premise licensee:** A business that has a license to both **sell** and **serve** alcohol at their facility.

Before implementing compliance checks, it is essential to gain support from both the local vendors and the greater community. To assure that vendors are aware of these ongoing compliance checks, a letter from your local law enforcement agency, coalition and/or substance abuse prevention agency (working with law enforcement) should be sent to all alcohol merchants in your community. This notification will reinforce the importance of vendors educating their employees on the correct procedures for selling alcohol, and inform vendors about the upcoming compliance checks (thus, eliminating any claim of entrapment).

Fundamental Steps

1. Review any existing local/state ordinances on compliance checks.
2. Obtain a listing of the alcohol vendors in your community by contacting your local/state alcohol beverage control office or liquor control commission.
3. Gather support and participation of local, county or state law enforcement.
4. Determine which locations will be checked.
5. Work with law enforcement to select and train buyers used in compliance checks.
6. Ask law enforcement to develop specific procedures for conducting each compliance check.
7. Work with law enforcement to notify local vendors of upcoming checks by sending out letters.
8. Implement the compliance checks according to protocol.
9. Ask law enforcement to complete all necessary reporting forms and refer to the appropriate authority for violations based on established protocol.
10. Identify immediate, intermediate and long-term outcomes. Continue to monitor and evaluate progress.

Helpful Tips and Suggestions

Establishing Support and Obtaining Partners

When attempting to gather the support of your local community, use local data on alcohol sales to minors and the extent of underage drinking in your community to show the need for compliance checks. Use this information in short face-to-face presentations and in articles in your local newspaper. Explain the benefits of compliance checks to avoid putting retailers on the defensive. Compliance checks need to be framed from the standpoint that they provide evidence that retailers are acting responsibly by following alcohol sales and service laws. Compliance checks can also be used as an opportunity to get youth involved in substance abuse prevention efforts. Identify youth groups/organizations and leaders who could serve as credible and reliable participants in this strategy. In general, youth should be between 16-19 years of age. Trained youth can provide peer input during other youth training. Make sure you identify an incentive or some type of recognition for all youth participants.

When establishing partnerships with your local, county or state law enforcement agency, be flexible and accommodating with your plans. Law enforcement agencies balance many tasks and responsibilities. Conducting compliance checks isn't always first on their list. Reinforce how compliance checks can assist law enforcement by reducing potential problems. Identify how compliance checks directly benefit the larger community. Make sure you understand which agency generally conducts compliance checks. Offer your group's assistance in whatever way possible including retailer follow-up, media coverage, and acknowledgement to retailers who comply with alcohol sales and service ordinances.

Media Awareness and Advocacy

Before compliance checks begin, work with your law enforcement agency to write a media advisory and news release publicizing the upcoming checks that will be conducted in your community. When local or county law enforcement agencies conduct compliance checks, send a congratulatory letter and/or certificate to licensees that were in compliance of the law. Write a letter to the editor of your local newspaper thanking the vendors that successfully completed their compliance check. Provide an advertisement for the local vendors on your coalition or agency website or through social media networks that publicize the names of those vendors who successfully completed the checks. Conduct interviews with law enforcement officers discussing the importance of the compliance checks.

Provide copies of interviews to your local newspapers and television stations and disseminate via social media networks.

Potential Partners

- Local media – television and newspaper
- Local, county and state law enforcement agencies
- Local/state alcohol beverage control office or liquor control commission
- Parents
- Youth
- Alcohol licensees
- Bar owners/employees
- Local substance abuse prevention agencies

Estimated Timeline

- Six to nine months for the planning, implementation and evaluation of the strategy
- At a minimum, compliance checks should be conducted annually to ensure frequency, consistency and a record of trends for your community

Potential Barriers or Obstacles

- Inability to obtain support and participation from law enforcement
- Relationship with alcohol licensees is perceived as adversarial
- Strategy may be viewed as using too many resources including staff time, transportation (mileage), incentives, certificates, etc.
- Checks that are not conducted properly may be classified as “entrapment” and challenged in court by alcohol licensees and employees

Possible Short- and Long-Term Outcomes

- Improved compliance check results
- Enhanced knowledge and improved employee skills related to alcohol sales and service
- Improved quality of vendor practice and standards
- Established baseline of alcohol sales to minors in your local community
- Decreased sale rate to minors
- Decreased number of underage youth who report buying alcohol from local vendors

Suggested Resources

Supplemental Resources Related to this Strategy

1. Sample Guidelines for Using Underage Cooperating Individuals During Compliance Checks.....	39-41
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Additional Resources and Information Available at faceproject.org

Links (A browser document called “Helpful Links” is located on the Resource CD for easier navigation.)

www.epi.umn.edu/alcohol/manual/index.shtm

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.

www.alcoholpolicy.niaaa.nih.gov

A project of the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the Alcohol Policy Information System (APIS) is an online resource that provides detailed information on a wide variety of alcohol-related policies in the United States at both state and federal levels.

www.udetc.org/aps/ComplianceChkDB.htm

The Compliance Check/Alcohol Purchase Survey Database is a tool that law enforcement agencies and community groups can use to track illegal sales to minors. This database is designed so that individuals from local enforcement agencies and community groups may enter their data from either compliance checks or alcohol purchase surveys directly into the system.

www.udetc.org/documents/AlcoholSales.pdf

A link to Reducing Alcohol Sales to Underage Purchasers: A Practical Guide to Compliance Investigations.

http://www.mnjointogether.org/Documents/Comp_check_factsheet.pdf

Fact sheet put together by Minnesota Join Together about stopping illegal alcohol sales and supporting alcohol compliance checks and minimum administrative penalties.

Sample Guidelines for Using Underage Cooperating Individuals During Compliance Checks

Through the passage of LB 114 (effective 09-01-01), the Nebraska Legislature amended Nebraska State Statute 53-1,122 to statutorily authorize law enforcement officers to conduct alcohol compliance checks. The Legislature also specified that all alcohol compliance checks in Nebraska shall be conducted pursuant to guidelines adopted and promulgated by the Nebraska State Patrol with input from the Liquor Control Commission. In order to comply with Nebraska Law, the following guidelines must be followed by law enforcement agencies that use underage individuals to conduct compliance checks for the purpose of detecting alcohol violations.

Before conducting compliance checks, a list of randomly chosen locations should be developed. It is appropriate to add to this random list locations that have failed previous compliance checks and/or locations for which complaints of alleged sales of alcohol to minors have been received. (Locations that have failed previous compliance checks should be given sufficient time between checks to allow the licensee to develop and implement strategies to address sales to minors.) If sufficient personnel are available, it is also appropriate to check all the locations in a certain geographic area or all the locations that have the same class of license rather than developing a randomly chosen list. A searchable list of premises with liquor licenses can be found at the Nebraska Liquor Control Commission's web site at <http://www.nol.org/home/NLCC/>. This list can be sorted by license type, city, street address and county.

Parental permission is required for a *Cooperating Individual (C.I.)* under the age of 18 (unless emancipated). Minors selected as a *C.I.* for conducting compliance checks shall, in their dress and appearance, be within the range of normal for minors in that geographical area. There should be no alteration to their normal dress and/or appearance for conducting compliance checks. Do not hesitate to instruct, advise and/or correct a *C.I.* in appearance matters regarding appropriateness for compliance checks. Any headwear, should be worn in a manner that is normal for their age.

The *C.I.* must be informed that he/she will be required to appear and testify before the Liquor Control Commission, if needed. When appearing before the Liquor Control Commission, every effort should be made to ensure that the *C.I.*'s appearance is the same or similar to the way it was when the compliance check was conducted. Witness fees and mileage are paid to individuals subpoenaed to appear before the Commission. If the *C.I.* is to be paid, payment should be made on an hourly basis or daily rate and shall not be paid based on the number of compliance checks completed or the number of purchases made. Continued use of an individual as a *C.I.* shall not depend on the number of cases made. The use of individuals working to avoid being charged for a prior or pending alcohol violation is strongly discouraged.

The *C.I.* should not order or purchase more alcohol than is reasonable to establish a violation. (It is not necessary for a *C.I.* to consume alcohol for a violation to occur; having alcohol in his or her possession is a violation of the Liquor Control Act.)

The Underage C.I. should be specifically instructed:

- Not to use a disguise that makes them appear older than they actually are.
- Not to use or possess false, borrowed or altered identification.
- To use their own personal, valid identification, i.e., drivers license, state ID, etc.
- Not to lie to a sales clerk if asked their date of birth, if they are old enough to purchase alcohol or their age. (If the C.I. is asked if he or she is old enough to purchase alcohol, it is acceptable for the C.I. to respond with, "Would you like to see my ID?" or some other similar reply as long as it is not deceptive in regard to his or her actual age.)
- To correctly fill out the documentary proof of age booklet if requested to do so. In the interest of safety, the C.I. may use an address that is not their own. The address of the local law enforcement agency is suggested as an appropriate substitution.
- To be prepared to accurately describe and identify the sales clerk for enforcement action.
- If asked, they may answer the question, "Are you working for law enforcement?" with "No."
(Any other deceptions are not permitted.)

Enforcement officers should:

- Be positive the C.I. understands all instructions and knows exactly what to do and say. (Coaching a C.I. on how to look and act older is not permitted.)
- Take several photographs of the minor prior to beginning the compliance check. (A Polaroid is acceptable.) Several photos will be needed as exhibits for court/commission proceedings.
- Ensure that the C.I. is not in possession of any form of identification other than his or her own valid identification and has no alcohol on his or her person.
- Make a photo copy or take a photograph of the C.I.'s identification.
- Remain in close proximity, or actually enter the retail outlet to view as much of the transaction as possible.
- Ensure C.I. safety by monitoring the C.I.'s conversation with a transmitter or other equipment if possible.
- Supply the C.I. with any funds needed to make purchases and document expenditures as they occur (noting specifically the amount tendered and change received).
- Immediately take possession of the evidence from the C.I. upon leaving the retail establishment.
Note: For purchases made at on-sale locations, the officer should confirm that the beverage served to the minor contains alcohol (by smell, personal observation, and/or by their training and experience).
- Not conduct multiple, non-simultaneous compliance checks on a single establishment within a 24-hour time period.

Upon detection of a violation:

- The sales clerk should be issued a criminal citation for the violation.
- The staff should be notified that a report will be sent to the Liquor Control Commission for administrative proceedings against the liquor license.
- The *C.I.* should immediately prepare a written statement regarding the details of the purchase, identification of the clerk/bartender and any conversation pertinent to the case.
- Officers should prepare a written report that includes a brief statement regarding the instructions the *C.I.* was given prior to the compliance check. The statement should also indicate that these guidelines were followed as required by 53-1,122. In addition, reports should include: 1) the time and date of the purchase; 2) the brand, quantity and type of alcohol purchased; 3) the amount spent for the purchase; 4) the identity of all clerks/bartenders/wait staff involved and other witnesses present; 5) whether or not the *C.I.*'s identification was checked and whether the documentary proof of age book was used; and, 6) the name of the business involved and the liquor license number, if known. Because Liquor Control Commission Hearings often are held several months after a violation is discovered, it is important to ensure that the *C.I.*'s and officer's reports contain all the elements of a violation, are accurate and are complete enough to refresh their memory prior to providing testimony.

Send congratulatory, follow-up letters to establishments indicating that they successfully passed a compliance check. (The date and time of the compliance check and the name of the clerk/bartender present, if known, should be noted in the letter.)

Also send the results of any compliance checks to the State Patrol Alcohol Tobacco Enforcement Coordinator to maintain an accurate statewide database of compliance rates, IDs checked and the ages of the *C.I.* used.

Upon request, the State Patrol can provide sample forms for parental permission, *C.I.* agreements, *C.I.* briefing sheets, violation reports, congratulatory letters and statistical tracking forms. Questions, comments, suggestions and requests for more information or training should be directed to: Nebraska State Patrol, Alcohol-Tobacco Enforcement Coordinator, (402) 471-2575.

(revised 11-01)

Sample News Release – Compliance Checks Results

WHEN TO USE – Send out this release to your local newspaper, television and news radio stations following compliance checks in your community.

FOR IMMEDIATE RELEASE

Compliance Checks Conducted Among Area Alcohol Retailers

Over the last [STATE TIME FRAME], the [NAME OF POLICE DEPARTMENT] conducted compliance checks among [SPECIFY NUMBER] businesses licensed to sell alcoholic beverages in our community. The police department notified the alcohol retailers in our community about these compliance checks by mail before initiating the checks in [NAME OF MONTH(S)].

Our police department followed standard procedures for conducting compliance checks. Underage youth worked with our police officers, entering area businesses and attempting to illegally purchase alcoholic beverages. Of all the businesses checked, [INSERT ACTUAL NUMBER OR PERCENTAGE] retailers refused to sell to underage buyers who were working with the police department. We want to commend the following businesses who demonstrated responsible alcohol sales during our compliance checks: [INSERT BUSINESS NAMES].

The [INSERT NUMBER OR PERCENTAGE] businesses who did sell to underage buyers were referred to the [INSERT APPROPRIATE LEGAL AUTHORITY] for failing to comply with the state's alcohol laws.

As law enforcement officers, we conduct compliance checks because they have been shown to be an effective strategy in reducing underage drinking. We want to reduce underage drinking because we know that it contributes to car crashes, injuries, addiction, vandalism, unwanted sexual encounters, teenage pregnancy, sexually transmitted diseases and death by alcohol poisoning. By themselves, compliance checks will not eliminate youth access to alcohol. But when combined with a comprehensive community approach, they can help keep alcohol out of the hands of kids.

For additional information, contact: [INSERT NAME AND PHONE OF CONTACT OFFICER]

Sample Compliance Check Summary Form

Outlet#	Date of Check	Name of Outlet	Type of Outlet (off-/on-premise)	Name of Buying Youth(s)	Was Youth Able to Purchase? (Y/N)
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.					
17.					
18.					
19.					
20.					
21.					
22.					
23.					
24.					
25.					
26.					
27.					
28.					
29.					
30.					
31.					
32.					
33.					
34.					
35.					
Totals					

Total number of outlets checked on-premise = _____

Total number of outlets checked off-premise = _____

Calculating Violations:

Number of violations (Y's in last column) ÷ Total outlets checked = Total violation rate

Number of on-premise violations (Y's in last column) ÷ Total on-premise outlets checked = On-premise violation rate

Number of off-premise violations (Y's in last column) ÷ Total off-premise outlets checked = Off-premise violation rate

Source: RAND Health, Technical Report: *Preventing Underage Drinking; Using Getting to Outcomes™ with the SAMHSA Strategic Prevention Framework to Achieve Results*, RAND Corporation, 2007, p.151.

Sample Seller Description

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

() Male

() Female

Hair color: _____ Shirt/top color: _____

Trousers/dress/bottoms 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: _____

Source: RAND Health, Technical Report: *Preventing Underage Drinking; Using Getting to Outcomes™ with the SAMHSA Strategic Prevention Framework to Achieve Results*, RAND Corporation, 2007, p.153.

Sample Buyer Report

_____ Law Enforcement Agency Case No. _____

Date of Attempt: ___/___/___
mm/ dd/ yyyy Time in: _____ Time out: _____

BUYER INFORMATION

My name is _____. I am _____ years old. My date of birth is ___/___/___
mm/ dd/ yyyy

I was born in (_____ county), (_____ state).

BUSINESS INFORMATION

Name of Business: _____ Address: _____

RETAIL LICENSE #: _____

TYPE

- Convenience Store/Gas Station
- Convenience Store Only
- Bar/Tavern
- Hotel
- Restaurant

- General Merchandise
- Small Grocery
- Large Grocery
- Drug Store
- Other: _____

PURCHASE

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

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

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

REFUSE 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.

Sample Letter to Retailers – Notification of Compliance Checks

Date

Business name

Address

Dear Business Owner:

I'm writing to let you know that the [INSERT NAME OF YOUR DEPARTMENT] Police Department will be conducting compliance checks throughout our community to encourage responsible alcohol sales according to the laws of our state.

Compliance checks are an important part of reducing youth access to alcohol. And when we reduce the availability of alcohol, we also help to reduce the problems associated with underage drinking such as car crashes, vandalism, assault and date rape, just to name a few.

During the next few months, underage young adults will come into your business to try to buy alcoholic beverages. Police officers will be working with these youth. Any employee who sells alcohol to underage buyers will be referred to the prosecuting attorney for criminal prosecution, and the business will be referred to the licensing authority for administrative action. In addition, the results of our compliance checks become public data and may be obtained and publicized by the news media.

We urge you to train your employees in conducting thorough ID checks every time they sell alcohol to any individual who looks to be ___ years of age or younger. If you need additional information about training material and programs for alcohol sales, please contact [CUSTOMIZE TO INCLUDE YOUR DEPARTMENT NAME, THE NAME OF A COMMUNITY GROUP].

We realize that most alcohol retailers want to act responsibly and comply with the law. We appreciate your cooperation.

Yours in safety,

Include name and signature of Police Chief or Sheriff

Letter of Appreciation to Responsible Vendors

The [NAME COUNTY] Sheriff's Office and the City of [NAME OF CITY] Police Department conducted a joint compliance check on [GIVE DATE(s)] of local stores, supermarkets, gas stations and other businesses that sell alcohol.

It was disappointing to learn from the local police and sheriff's office that ___% of the stores in [NAME COUNTY] sold alcohol to an underage decoy. [NAME OF PREVENTION GROUP] is working with many store owners in our county who are committed to eliminating youth access to alcohol.

Oftentimes, only the negative aspects of a story are emphasized. [NAME SPONSORING ORGANIZATION] would like to recognize the ___% that were in compliance with the law. The stores that did not sell alcohol to a minor in the county were: [CREATE LIST OF STORES]

In the City of [NAME CITY], [CREATE A LIST OF STORES], did not sell alcohol to a minor.

[NAME OF SPONSORING ORGANIZATION] believes through continued education, community collaboration, policy development and training, the community will see a reduction in youth access to alcohol in our county.

Sincerely,

Include your name and group name

