



## TOBACCO ENFORCEMENT PROGRAM

# PROCEDURES FORM

FY 2008

**PURPOSE:** The *Iowa Alcoholic Beverages Division* has created the following suggested procedures for routine and fair monitoring of Iowa retail establishments licensed to sell tobacco products.

### **Preparing for Compliance Checks**

A local law enforcement agency (department) should coordinate the participation of a minor to assist with the controlled-buy operation (compliance check).

1. Minors shall be between 15 and 17 years of age.
2. Minors under the age of 16 shall have a work permit, which may be obtained at the local school or Iowa Work Force Development office.
3. All minors should be of good character.
4. Minors should have the appearance, demeanor, mannerisms and dress appropriate to their age group.
5. All minors shall have a parent or guardian complete a Parent/Guardian Consent Form prior to the scheduled compliance check date.
6. The local citing officer shall be available for testimony at hearings and district court proceedings at the request of the local/state prosecutor and shall advise local or state prosecutors and/or Iowa ABD investigators as to the disposition of criminal citations.

### **A Briefing Shall be Held Prior to Conducting Checks**

1. The officer in charge should approve the minor's appearance, and a photo should be taken of the minor before each day's compliance check. Also, photocopy the minor's ID. The minor's appearance should not be changed after that point.
2. The officer should verify the minor has proper, official identification showing date of birth. This shall be the only identification carried or presented throughout the course of the compliance check. The minor should have no other money or tobacco products.
3. The minor should be instructed:
  - a. To go directly to the targeted merchandise and then directly to the check-out counter;
  - b. That at no time should the minor try to persuade the licensee/clerk to complete the sale, and the minor should speak only as necessary;
  - c. If asked about age, the minor is to present the previously approved personal ID card;
  - d. If a transaction is completed (a sale made), the minor should try to obtain a receipt and name of the clerk where it is practical to do so.
4. The success of the operation and the minor's continued participation in tobacco compliance checks is not dependent on making successful purchases.
5. The officer shall have the authority to terminate the operation at any time for safety reasons.
6. If the minor is able to purchase tobacco products, the violations are as follows:
  - a. 453A.2(1) A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age.
  - b. 453A.3(1) (a) A person, other than a retailer, who violates section 453A.2 subsection 1, is guilty of a misdemeanor.
  - c. 453A.3(1)(b) An employee of a retailer who violates section 453A.2 subsection 1, commits a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.

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## PROCEDURES FORM (CONT.)

### Compliance Check Process

**Tobacco Retailers** – If possible, the officer should be stationed either inside the store or at a point from which the officer can observe the sale. The officer should not appear to be with the minor.

**Restaurants** — If practical, the officer should be stationed outside the establishment where the minor can be viewed, and positioned to witness any transactions between the minor and any representative of the establishment. If this cannot be accomplished, and no audio/video devices are being utilized, the officer should enter the restaurant after the minor and observe from a discreet location. The minor should take a seat alone, and attempt to purchase cigarettes from the counter or vending machine.

**Bars** – The minor should enter alone and order cigarettes or other tobacco products. If possible, the officer should be stationed either inside the bar or in an area from which the minor can be observed attempting to make a purchase. The officer should not appear to be accompanying the minor.

The minor should not be sent into an adult entertainment facility or bar where the officer feels it is unsafe or inappropriate for the minor to be. However, the officer must include a narrative in the compliance check comments outlining why the officer feels the establishment is unsafe or inappropriate. In the event that the Iowa Alcoholic Beverages Division feels the check can safely be conducted, the department will be asked to complete the check.

A uniformed officer can check an establishment that falls under unsatisfactory conditions to determine if minors have access to the premises. Any establishment where an employee checks the minor's ID at the door and denies the minor access to the premises shall be considered to be compliant.

**Unsatisfactory Conditions** – Establishments that are unsafe or inappropriate for a minor to enter can be considered an “unsatisfactory condition.” However, to formally designate the establishment as an “unsatisfactory condition,” the officer in charge must contact their area investigator prior to conducting the compliance check for confirmation.

Once the establishment has been formally designated as an “unsatisfactory condition,” the officer in charge must conduct a “walk through” of the premises to ensure the establishment is in compliance with Iowa's tobacco laws. A payment will not be expedited to law enforcement agencies that neglect to conduct a “walk through” on “unsatisfactory condition” establishments.

**Vending Machines** – A vending machine which is accessible to a youth under age 18 is in violation of Iowa Code 453.A.22 (2). If an establishment has a vending machine, the minor should be instructed to approach the retailer and specifically ask for change for the vending machine. If change is given, the minor should purchase the cigarettes from the machine and exit.

**Audio/Video Recording** – May be utilized during compliance checks in lieu of officer observation.

### Reporting

The officer/local entity shall enter the compliance check results into the ABD Tobacco Enforcement system accessible at [www.iowaABD.com](http://www.iowaABD.com) within 48 hours and file the written report locally.