

Compliance Investigations

Reducing the Commercial Availability of Alcohol to Minors

Young people obtain beverage alcohol from a variety of sources. Reducing the source of supply through retail compliance investigations is one of the most effective strategies available to combat underage drinking. While it is clear that enforcement alone will not eliminate underage drinking, reducing the source of supply will make access to alcohol more difficult and is likely to reduce underage drinking.

Alcohol retailers are the first line of defense in stopping the sale of alcohol to young people. Law Enforcement should partner with retailers in working to solve problems associated with underage drinking through a community-orientated policing approach. Working with alcohol retailers gives the agency an opportunity to assess weaknesses in the retailer's operation so that corrections can be made without penalty.

Preventing Problems Before They Occur

There are many ways in which law enforcement agencies can work with alcohol retailers to prevent sales of alcohol to underage persons. Law Enforcement agencies may conduct training sessions to remind retailers and their employees about their legal and social responsibilities involved in the sale of alcohol as well as providing updates in issues such as recognizing proper identification or third-party purchase attempts. Agencies might also send retailers periodic letters and notices designed to maintain high awareness of the issue.

Officers will often engage in a more informal training practice by stopping and talking to store employees during their patrol duties about issues such as sale to underage youth and robbery prevention practices. One well-received practice to promote compliance is for officers to present retail clerks with encouragement cards, thanking them for their efforts in preventing the improper sale of alcohol.

While these law enforcement efforts are important, police agencies have recognized that they simply do not have the resources to look over each retailer's shoulder. Therefore, the goal of retail compliance investigation programs is voluntary compliance by the alcohol retailers.

Retail compliance investigations have proven to be an effective approach to achieving voluntary compliance. They are one of the most cost-effective activities law enforcement can utilize to assess the availability of alcohol in a community, change the behavior of retailers, and send a message to young people that underage drinking is not acceptable and will not be tolerated.

Other Benefits

While voluntary retailer compliance is the primary goal of the retail compliance investigations, many enforcement agencies realize other significant benefits from conducting the investigations:

- Media exposure from retail compliance investigations allows the agency to change or reinforce community norms stressing that underage drinking and the sale of alcohol to underage persons are not acceptable behaviors.
- Retail compliance investigations work as a part of a larger comprehensive strategy in preventing alcohol-related tragedies.
- Investigations allow the agency to measure and monitor the level of underage alcohol sales in the community. This raises community awareness among parents and community leaders, especially when coupled with media advocacy.
- Compliance investigations can be used to measure the effectiveness of this enforcement program and other enforcement strategies.

Over time, compliance investigations will actually reduce the amount of resources law enforcement must invest in the problems associated with underage alcohol use.

Selecting Underage Volunteers

The appearance and demeanor of the underage volunteer can influence the sales rate. Females may be able to buy more often than males in certain communities. More attractive young people may be able to buy more often without having their IDs checked. Making sure that the underage volunteer is the same race as the sellers may also be a factor in some communities. The key to a successful retail compliance investigation program is to select volunteers that reflect your community while taking into consideration factors that may influence sales rates. There are several approaches that can be taken to overcome any bias in the use of volunteers. The use of multiple volunteers of different genders and racial backgrounds tends to equalize these factors. Training to ensure that the volunteers follow a consistent protocol will also help reduce any bias. Another effective practice is to randomly assign volunteers of different genders or racial backgrounds to the investigations. Finally, the use of multiple volunteers for each location can neutralize potential bias. The following criteria should be considered when selecting underage volunteers:

- Select volunteers who are not yet 20. By selecting volunteers under 20, the retailer cannot claim that the test was unfair because the volunteer was close to legal age. In deciding the appropriate age of the volunteers, it may be important to check the language in state laws or local ordinances dictating the duty, if any, a clerk has to ask for identification.
- Use age testing to validate the appearance of the volunteer to ensure they appear under 21 years of age to a reasonable person. This can be accomplished by asking several employees (preferable non-sworn) in your agency or an age panel made up of people who work with young people such as high school teachers. Age testing can be done in person or through a photo line-up.

- If the volunteer is going to use a vehicle during the operation, check the driving record and insurance.

Appearance

Appearance of the volunteer is a major consideration in defending the agency's retail compliance investigations against charges of trickery or entrapment. It is recommended that male volunteers have no facial hair (beards, mustaches) and that female volunteers not intentionally look older through the use of heavy makeup or revealing attire. Volunteers should dress in a manner consistent with peers in their age group.

Training the Volunteers

Underage volunteers must be properly trained to ensure the success and fairness of the retail compliance investigations. This training establishes a standard protocol resulting in consistent investigations. The elements of the training program should include:

- Coaching the volunteers how to make alcoholic beverage purchases, including how to act, what to say, and how to respond to a variety of questions. The volunteers should be given the opportunity to practice this protocol so that they feel comfortable conducting the investigations. The volunteers should be told never to entice the clerk to sell through word or action. The protocol should include instruction on what type of alcohol to attempt to purchase, what brand name and size to request, and should be consistent from store to store so that the buyer is decisive in his actions.
- Instructing the underage volunteers to answer truthfully if asked their age or asked to produce ID.
- Advising them not to attempt to buy alcohol if there is someone in the store they know.
- Giving the volunteers the authority to decline to go into a store or to leave if they feel uncomfortable with its layout or for any other reason.

Documenting Volunteers

Each underage volunteer selected for the program should be reliable and well-documented by the agency. A file should be established on each volunteer containing the following:

- **A personal history form** should be used to capture information needed by the agency in supporting the actions of the volunteer. It can also be used as an emergency contract form if necessary.
- **Photographs of the volunteer** should be made each time the volunteer is used to provide a complete record of his or her appearance. If it is not practical to take a photograph each time the volunteer is used, a photograph should be made at least monthly during the time the volunteer is being used.
- **Driving and criminal checks.**
- **Injury waivers**, if applicable.

- **Parental permission form**, if the volunteer is under 18.
- **Agreement of understanding**, which sets forth the terms of the relationship between the volunteer and the agency. It describes the tasks to be performed and the limits on the volunteer's authority and immunity. This document is intended to protect both the agency and the volunteer.
- **Copy of the volunteer's driver's license**, state-issued ID card, or birth certificate.
- **A list of all compliance checks performed by the volunteer** to include dates of the compliance check, locations checked, and whether a "buy" was made or refused. It is recommended that a volunteer not be used if he or she has a consistently high buy rate. The level at which a volunteer is considered too successful will depend on the retail compliance rate in that community. It is important to ensure that a volunteer's appearance or demeanor is not consistently causing the retail employees to believe that a volunteer is over 21. This file will help the agency determine if this is the case.

Insurance

The agency needs to consider the level of liability they incur through the use of volunteers. This would include, but is not limited to, personal injury and civil liability. In some cases, it may also include workman's compensation responsibility.

Planning Compliance Investigations

Compliance investigations are a cost-effective way to control youth access to alcohol from retail outlets. The operations are simple to conduct if properly planned. The manner in which retail compliance investigations are conducted is based on the agency's and community's purposes and need. Is the purpose of conducting the investigations to make arrests? To educate retailers? To achieve voluntary compliance? To reinforce a "no-use" message? While these goals are not mutually exclusive, the manner in which the retail compliance investigations are conducted can emphasize one or more factors over others.

Working With Community Leaders

In many cases, it may be beneficial to work with community and political leaders in advance so that they will be supportive of the operations and able to field complaints and questions. The operational protocol can be discussed so that the community and political leaders are clear that the investigations are being conducted safely and fairly. This notification also provides a good opportunity for the agency to educate political leaders about the problems of underage alcohol use facing the community.

Working With the Court System

In the planning stage of the retail compliance investigations, keep in mind the potential impact of this operation on other components of the regulatory and criminal justice system. Overloading the alcohol beverage control agency, courts, or prosecutors

without advance notice can be counterproductive. With advanced preparations, systems can be established to deal with the additional charges generated by the enforcement campaign.

Selecting Locations

The number of retail locations investigated will be determined by a number of factors including availability of officers, intended duration of the operation, and the expected outcomes from the investigations. There are a variety of methods for selecting the locations, including:

- **Investigating all retail locations in a community.** Lists of alcohol outlets can be obtained from Michigan Liquor Control Commission, zoning, or occupational licensing agencies. State, city, or county revenue departments, yellow pages, and commercial business list providers may also be sources for these lists.
- **Selecting locations at random.** This can be done by taking the lists cited above and choosing outlets at random (e.g., every tenth outlet). This action reduces the overall resource commitment while impacting all areas of the community.
- **Investigating all retailers in certain geographic areas.** Staffing and resource considerations may necessitate limiting the number of investigations to be conducted. The agency may consider conducting those investigations in a particular area of the community (e.g., near a college campus).
- **Selecting certain types of outlets,** e.g., convenience stores, gas stations, or grocery stores, if these have been identified as the most common sources of alcohol for underage drinkers.
- **Selecting locations on which the department has received a complaint or with a documented history of sales violations.**

When To Conduct the Investigations

Retail compliance investigations should be conducted in a manner designed to make them appear similar to typical buy attempts by young people. It is important to note that young people may make alcohol purchases at different times and on different days than adults. Investigations should be conducted at the same time young people would normally be attempting to make alcohol purchases. Underage alcohol purchases tend to be earlier in the evening than those by of-age adults and are often made in conjunction with social events such as basketball and football games, concerts, and dances. Friday and Saturday nights are also prime purchase times. Investigations conducted when young people would normally be in school or at work might alert retailers that this is a compliance investigation.

Frequency of Investigations

Conducting retail compliance investigations on an on-going basis throughout the year is the most effective manner of maintaining a presence in the community. This option requires an investment of resources that many agencies are unable to maintain. Often

additional resources can be drawn from other units within the agency, such as school resource officers, park patrol officers, and juvenile officers during downtime from their regular assignments. An alternative to conducting continuing retail compliance investigations is to schedule them periodically throughout the year. Conducting investigations over a two-week period, three to four times per year, will keep the issue fresh in the minds of beverage retailers and assist in achieving voluntary compliance.

Use of Volunteers' ID

The law enforcement agency should decide ahead of time if volunteers are going to carry their own identification. It is recommended that they carry ID and present it when asked. Often the clerk will make the sale even when presented with identification. Carrying the ID supports the fairness of the investigation. Many times retail clerks simply ask for ID as part of a routine and do not actually examine it to determine if it is altered, current, or even belongs to the presenter. The use of a proper ID also tests the clerk's ability to accurately check the date of birth on the ID. If the volunteers do not carry identification and they are asked for it, the volunteers should state that they do not have ID. Some clerks will still sell to them. If the volunteer's identification is carried and produced, there is a risk of temporarily identifying the buyer; however this procedure provides a more realistic test

Truthful Answers

The volunteers should be instructed to be truthful in encounters with clerks. If asked for identification, the volunteers should present identification. If asked their age, the volunteers should answer truthfully. The same is true if the clerk asks whom the alcohol is for. It is important that the volunteer not do anything to induce the clerk to make the sale. Stating that it is for someone else might cause the clerk to believe that the alcohol was for someone of legal age, creating a defense for the action later in court. Remind the buyers that success is not measured by the number of people arrested but by the fairness of investigation.

Number of Volunteers

One underage volunteer buyer is sufficient for most retail compliance investigations. There are times and situations, however, when consideration should be given to the use of two volunteers as part of a team. Using two buyers can make the volunteers feel more comfortable and act more natural in their attempt to make a purchase.

What Should the Buyer Attempt To Purchase?

Beer is the alcoholic beverage of choice for young people. It is inexpensive and readily available. Most underage drinkers prefer the major advertised popular brands of beer. You should give consideration to selecting a brand that is popular with young people in your area. Buyers should be discouraged from requesting expensive or unusual brands of beer, as this will draw attention to their purchase request. In some areas, wine coolers and similar beverages are also popular.

How Much Alcohol Should Be Purchased?

In most cases, the amount of alcohol purchased is not a critical element in supporting the violation allegation; one bottle or can of beer is sufficient. There may be circumstances when purchasing a larger amount of alcohol, such as a keg or case of beer, will be necessary to demonstrate that the purchase was for distribution or use beyond personal consumption. This decision will need to be based on community considerations such as community norms, your local prosecutor's expectations, and typical judicial actions.

Should Other Items Be Purchased With the Alcohol?

Making small purchases along with an alcoholic beverage is a normal process for of-age customers and can make the retail compliance purchase attempt appear more realistic. The particular items purchased can affect the perception of the purchaser's age. Buying snack food items may contribute to a perception that the buyer is younger while purchasing a pack of diapers may contribute to the perception that the buyer is older. While the buyer must ensure that his or her actions do not attempt to mislead the seller, care should be taken in selecting ancillary purchase items that do not necessarily make the buyer appear too young to make the alcohol purchase. It is also important to have small bills for the purchase. Large bills requiring excessive change can focus undue attention on the buyer.

Scheduling

Retail compliance investigations can be conducted quickly. Most of the time involved in conducting the investigations will be taken for pre-planning, travel, and responding to violations. Investigations conducted in areas where the officer and volunteer can walk from store to store can be done quickly. Investigations requiring driving longer distances may require more time. It is possible to conduct as many as 20 investigations per hour or as few as one per hour, depending on the density of outlets.