

Operating Alcohol Age Compliance Checks in Wisconsin

“Increasing enforcement against retailers who sell to minors can have a substantial effect on alcohol sales to young people. Even moderate increases in enforcement can reduce sales to minors by as much as 35 percent to 40 percent, especially when combined with media and other community activities.”

Reducing Underage Drinking: A Collective Responsibility, National Research Council Institute of Medicine, 2004

The minimum legal drinking age in every state and Washington, D.C. is 21 years of age. When a municipality issues a license to a specific retailer they agree to operate within the laws governing the sale or serving of alcohol. In Wisconsin, state law requires face-to-face sales, in part to assure retailers have an opportunity to examine the purchaser’s ID. In most situations, the licensee or agent isn’t present every moment during their business day. We rely on retailers to instruct their employees when and how to inspect identification and when to refuse to make a sale. But like many tasks, attention to ID checks erodes over time as new personnel arrive and management priorities change. Failure to enforce a law can result in reduced compliance with the law.

Alcohol age compliance checks are law enforcement operations where a youth usually aged 17-19 working with the police attempts to purchase alcohol using their own (underage) ID or no ID at all. If the youth successfully purchases alcohol the clerk is issued a warning or a citation.

These checks are not “stings” attempting to entrap retailers; retailers are notified in advance, often by letter, of the period of time these checks will occur. Communities adopting a comprehensive approach to preventing and reducing underage drinking often pair age compliance checks with efforts to reduce non-commercial (social) access to alcohol such as social host ordinances. Enforcing the laws against selling alcohol to youth on a regular basis is similar to speed enforcement zones near schools – over time people get lax about limits and laws unless enforcement activities occur.

It’s also important to remember, retailers promise to enforce the law when they obtained a license. Protections are in place to protect retailers from malicious or incompetent employees. One citation for selling to underage customers is not grounds for suspension, revocation or non-renewal. Licensees cannot be cited as part of an age compliance check. Regular alcohol age compliance checks protect the community from retailers who fail to fulfill their responsibility to sell alcohol legally.

Research shows that the impact of age compliance checks diminishes as early as two weeks after an enforcement action and the deterrent effect has largely disappeared after just three months.¹ A constantly changing group of teens and high levels of employee turnover requires ongoing employee education efforts and vigilance to keep compliance rates at acceptable rates.

Alcohol Age Compliance Checks – Enforcing Existing Law

Compliance checks should be part of the community effort to prevent and reduce underage drinking, as a proven strategy to reduce commercial access to alcohol among youth for several reasons:

- 1) Selling alcohol to anyone under age 21 is clearly illegal – there are no grey areas when a solid protocol is used. The community enforces alcohol-related laws and ordinances community expectations are clear.
- 2) Studies consistently show alcohol age compliance checks reduce alcohol sales to underage individuals.

Alcohol age compliance checks support positive community expectations, reduce underage drinking by reducing youth access to alcohol while enforcing the widely accepted and respected minimum legal drinking age. While some retailers may balk, citizens expect retailers to respect the law and will support the operation if the goals and process is explained in advance.

Age Compliance Checks in Wisconsin

In Wisconsin, alcohol licensing and enforcement is a local function. Wisconsin does not have a statewide licensing board or state police force. Alcohol age compliance checks are handled by individual police departments and often by regional task forces often operated by the County Sheriff.

Experience shows compliance checks are most effective when:²

- 1) scheduled to cover retailers at least twice a year
- 2) provide advance notification to retailers, they are not “stings”
- 3) use tested and effective protocols
- 4) build community support for compliance with the law

And although not possible in Wisconsin:

- 5) penalize the license holder when appropriate and not simply the clerk or server

Wisconsin's underage drinking *rate* is slightly below the national average, reducing youth access to alcohol could drive that rate even lower. Youth acquire alcohol through either commercial or noncommercial sources; younger teens and tweens pilfer alcohol from family and family friends while older teens are likely to attempt alcohol purchases at off-premises (Class A) retailers, especially convenience stores or similar small retailers (commercial access).

While the details vary, vigilance and public safety suggest communities make every effort to sustain or initiate alcohol age compliance checks to achieve a deterrent effect.

The Municipal Perspective:

Since age compliance checks are a local responsibility, the groundwork is local. If your community does not conduct alcohol age compliance checks, it is important to learn why before taking any action.

The reasons often go along these lines:

“When the funding ended, the department ceased conducting them.”

Meaning law enforcement was unaware the community supports enforcement of minimum legal drinking age laws.

Most of the discontinued federal grants to support the checks were \$5,000 or less, amounts that could be absorbed into local budgets or funded from other sources.

“The last time they were attempted, there was “trouble”.

Meaning that retailers complained about the operation usually by asserting they were entrapped or “targeted”. Of course they were targeted, compliance checks only apply to individuals selling alcohol – who else would be targeted.

Vocal support from community residents can effectively quiet retailer objections to age compliance checks, but it is best to establish support for the operation before the complaints begin. One or two calls, plus a letter to the editor constitutes a groundswell of support in most communities. After all, the police are simply enforcing the well-established and respected minimum legal drinking age.

Our merchants self-regulate through the Responsible Retailing Forum or other industry sponsored programs (We ID or We CARD)

Industry programs have never been evaluated to determine an impact, we don't know what impact, if any, they have on retailer compliance.

Retailer programs are voluntary, merchants agree to be checked and the individual results are not released. A press release asserts a specific degree of compliance, as if all retailers were checked when only a handful of locations were checked.

“We don’t have an underage drinking problem” or “Our merchants obey the law.”

If you have evidence of an underage drinking in your community, that may validate an assertion that:

General assertions often refer to a political decision or simply a long standing tradition with a long forgotten rationale. Underage youth, what they drink and how they access it is constantly changing.

If you have no evidence to either support or rebut the assertion, suggest a youth access survey. These are law enforcement operations that simply tests local merchants without citations being issued. You may discover that merchants are really operating in compliance with the law—or that you have a serious problem.

When local law enforcement and the governing body of the community knows residents support alcohol age compliance checks, the effort becomes a matter of public safety not retailer inconvenience. The simple truth is that very few people want retailers to sell alcohol to youth, even unintentionally. The minimum legal drinking age has proved to be a popular and effective law that has significantly reduce death and injury among teens.

In Wisconsin, some coalitions perform aspects of the compliance check program that do not require a sworn officer or provide funding for officer over-time. A list of potential civilian tasks is located in Appendix 1. In short, when a community values alcohol age compliance checks, they look for the resources to continue them.

Early Planning

Most Wisconsin municipalities have adopted Chapter 125, the section of Wisconsin statutes on alcohol control, as part of their municipal ordinances. That enables local law enforcement to issue civil citations for selling alcohol to underage customers.

Municipal citations provide flexibility. Some communities offer retailer education or license conditions in lieu of other sanctions. By statute, only the clerk may be cited and only one offense may be prosecuted as a result of a single instance of selling alcohol to an underage individual. Both the server and bouncer cannot be cited for the same underage customer.

Before beginning compliance checks; the municipal judge (or judges in regional efforts) should be briefed on the purpose and operation of age compliance checks and possible alternative sanctions. It is important for municipal judges to understand that alcohol age compliance checks are not “sting” operations and that research shows compliance checks prevent underage drinking. Most judges are well aware of the problems caused by underage drinking as a result of the vandalism, theft and disorder concerns they see in their courtroom. On occasion, the failure to include the municipal judge in discussions has resulted in dismissed citations or reduced forfeitures by judges who were unaware of local underage drinking problems or failed to understand the goals of the operation.

Operational Planning

Successful alcohol age compliance checks are operated by local police, Sheriffs’ Departments or regional law enforcement task forces. Both Sheriffs and local police departments have successfully operated regional age compliance check operations under multi-jurisdictional agreements. Regional operations may be more efficient and create a larger pool of youth decoys making a regional approach an attractive option for many communities.

The size of each team and how they are deployed varies. In general, each compliance check team consists of at least two youth decoys, and two adults. Some teams are composed of one sworn officer and one adult volunteer, while other Departments deploy two sworn officers. While some communities field one officer with two decoys, that approach leaves one decoy temporarily unsupervised for brief periods throughout the shift.

Only officers should drive from location to location. Adult volunteers may be required to pass a background check prior to participating in an operation. Departmental policies vary, but most limit adult volunteers to individuals who have not had an alcohol-related citation or offense. While some communities use teams that do not include a sworn police officer, the effectiveness of civilian/youth teams has not been established.

Some Wisconsin coalitions recruit and train both adult and youth volunteers involved in alcohol age compliance checks, significantly reducing the amount of time law enforcement officers devote to the program. Community groups can also perform some of the administrative tasks that do not require a sworn officer, reducing the overall cost of the program.

Making a community coalition an integral part of local alcohol age compliance checks benefits both the law enforcement agency and the coalition. The coalition participates in an effective evidence-based intervention and the law enforcement agency is able to implement age compliance checks with fewer local resources.

Many community coalitions and Drug Free Community Grantees are members of the Wisconsin Alliance for Youth which encourages cooperation with local law enforcement. A [listing of coalitions](#) participating in the Wisconsin Alliance for Youth can identify your local group.

Youth Decoys

Law enforcement preparing for alcohol age compliance checks have a ready source of trained youth volunteers (decoys) from the tobacco age compliance check [Wisconsin "WINS"](#) program. Youth too old to volunteer for tobacco age compliance checks (age 18) are at the right age to become decoys for alcohol age compliance checks. Some Wisconsin communities recruit decoys from local Explorer Scout Posts or law enforcement students at a Wisconsin Technical college. Law enforcement agencies usually deploy decoys outside their neighborhood or community, reducing the chance a decoy will be recognized by retailers.

Youth decoys should not have any previous (non-traffic) citations or alcohol violations. If a youth receives an alcohol-related citation after becoming a decoy, they are no longer credible decoys and their participation should end.

Prior to accepting a youth volunteer as a decoy, most law enforcement agencies conduct an internal review to determine that a reasonable person would believe the youth was younger than age 21. Young men with facial hair or young women who appear significantly older are not good choices for decoys.

Before the first operation, each youth decoy needs to provide the following:³

1. Signed parental permission slip
2. Signed waiver of department responsibility for injury or harm
3. Emergency contact and health insurance information
4. Copy of birth certificate

Some law enforcement agencies develop a written agreement between youth decoys and the Department which is signed by both parties prior to participation in any compliance check operations.

Agreements describe:

1. Exact duties and responsibilities of a decoy
2. Length and frequency of shifts
3. Any post citation responsibilities
4. Other specific expectations for youth volunteers at all times, such as not participating in or attending events where illegal underage drinking occurs

Youth are not generally compensated for participation, but some municipalities reimburse for travel costs or provide incentives such as movie passes or pizza gift cards. In some communities, local restaurants and entertainment venues

provide passes or meals to decoys as a public service and in return the merchant is recognized for their community service.

All decoys should be photographed in the clothes they are wearing prior to each shift to document their appearance at the time of the operation. Digital cameras give Departments the ability to add the decoy's photo to the computer record of the operation. Some Departments record the decoy's 0.00 BAC prior to the shift by administering a breath test.

As noted earlier there is some variation in the size and composition of teams, with some youth independently or in teams of two with an adult.⁴ Some agencies find youth are more comfortable working in pairs, because they are uncomfortable entering retailers alone. Having two youth on each team allows decoys to switch off serving as the buyer to reduce the impact of retailer telephone trees. Youth should be accompanied by a sworn officer who remains out of sight and, in some communities, a second adult, who may or may not be an officer.

Scheduling and Timing

The most effective alcohol age compliance checks are conducted systematically over a long period of time. Research and experience indicates age compliance checks need to be an ongoing police activity, much like speed control.

In Wisconsin, alcohol age compliance checks generally operate using one of the two following patterns:

1. The law enforcement agency conducting the operation picks an extended period (two-weeks to one month) once or twice a year to conduct the compliance checks. The operation may move between neighborhoods and municipalities at any point during the announced time frame in response to vendor phone trees or community events.
2. Agencies schedule compliance checks throughout the year as resources allow, with the goal of checking the majority of licensees within the area.

Because youth are most likely to attempt alcohol purchases at convenience stores and similar retail locations, some departments make Class A (off-premises) establishments the priority. Checks based on anonymous or citizen complaints are not recommended.⁵ It is unwise to limit check to only off-premises retailers, older teens will attempt to purchase alcohol at on-premises licensees such as bars and restaurants.

Aggressive retailer telephone trees that alert other vendors to the presence of age compliance check operations may be irritating but also beneficial. Heightened observance of the law by local retailers is deterrence in action. In most situations the compliance check team simply relocates to another part of the jurisdiction and multi-jurisdictional operations may simply proceed to another

community after the first ticket is issued to complete the shift, leaving behind community retailers operating within the law.

In small jurisdictions, some Departments decide to write tickets after all the checks for that day are completed to prevent telephone tree alerts. In a small number of situations, officers return to write tickets the following day. The impact of these practices on the overall effectiveness of the operation is unknown.

Prior Notification

The most effective operations notify licensees in advance of the general time frame before initiating compliance checks. In Wisconsin, prior notification is generally made by first class letter to every license holder in the community, although some officers or Departments may also visit licensees as well.

Prior notification reduces the appearance of a police “sting” blunting objections from local retailers and reinforcing the public perception that laws relating to alcohol sales are enforced. Some communities rely on media outreach to notify licensees know that alcohol age compliance checks are conducted throughout the year.

Some law enforcement agencies chose to limit age compliance checks to high risk occasions including; homecoming, prom and graduation. However, time targeted checks are unlikely to deter retailers the rest of the year and are not recommended.

A few law enforcement agencies chose not to make any prior notification and schedule age compliance checks throughout the year as perceived need and manpower allows. The deterrent effect of spontaneous and irregular checks is unknown, *advance notification is generally recommended.*⁶

Citations

Communities may consider the first round of alcohol age compliance checks a “survey” with written warnings issued to failing establishments and the clerks receive citations during subsequent checks. While citations written against owners (licensee) are a more effective deterrent over time, they were banned by the State Legislature in 2016.⁷

Decoy ID or No ID

Some protocols ask decoys to present their own ID when requested by retailers. Some decoys are directed to attempt to purchase alcohol without an ID. Decoys may leave their personal IDs with the officer and are instructed to provide truthful responses to any questions asked by retailers, without initiating a conversation. If the retailer sells to the youth without seeing identification, a citation is issued.

Of course, asking for an ID is not the same as failing to examine an ID. It is not uncommon for a clerk or server to request an ID, but fail to inspect it carefully. In another state, one jurisdiction places the photo of canine officers (police dogs) on

ID given to decoys to clearly establish the ID was not properly inspected prior to the sale.

When an ID is not presented, it is impossible to determine if clerks would have examined an ID to ascertain birthdate and identity before a sale. At least one Wisconsin community noticed a dramatic drop in the retailer compliance rates when the local protocol changed to require decoys to present their (underage) identification as opposed to assuming compliance if identification was requested.⁸

Penalties and Sanctions

To achieve the overall goal of greater compliance by alcohol retailers, many law enforcement agencies allow clerks to avoid forfeitures by successfully completing training sessions on alcohol sales and service, and offering that same training to the licensee.

Wisconsin's required *Responsible Beverage Server* (RBS) training is minimal, additional training and internal enforcement policies are the responsibility of the license holder. Municipalities may not *require* additional training.

Not every person selling or serving alcohol needs to hold a bartenders' (called operators) permit to sell or serve alcohol or even take Responsible Beverage Server Training. One licensed operator or the licensee needs to be on the premises in a supervisory role whenever the establishment is open.

Clerks may receive only training provided by the retailer. Increasingly, local law enforcement offers retailer training to encourage compliance and reduce alcohol-related problems in the community. In some situations, law enforcement may determine additional training is an appropriate substitute for other sanctions after a violation.

Individuals or establishments that consistently fail compliance checks may need additional incentive to become compliant. Law enforcement agencies can document repeated alcohol sales to underage decoys, raising the issue during the renewal process with the licensee. Even if the licensee cannot be cited for a violation as a result of a compliance check, a note or letter documenting each violation that occurs should be placed in the licensee's file. Statutes prohibit a licensee from being sanctioned for a single violation in a 12-month period, but the record needs to be maintained in the event other occur. The effectiveness of alcohol age compliance check depends on both the ongoing operation of the program and a credible belief that sanctions will be imposed on repeat offenders.

Operational Guides

There are several well documented protocols available that outline every aspect of alcohol age compliance checks. In Wisconsin, a frequently used protocol is the Minnesota Alcohol Epidemiology Program Alcohol Age Compliance Checks, [available to download](#). [scroll down]

Some aspects of the Minnesota manual conflict with Wisconsin law, involvement of local law enforcement will help identify those conflicts. Appendix A of the Minnesota protocol is a *Decision Checklist* that includes many of the decisions outlined in this summary.

Community alcohol and drug coalitions may benefit from the planning and organizational materials found in: [Using Getting To Outcomes™ with the SAMHSA Strategic Prevention Framework to Achieve Results](#) (beginning on page 139) [available online](#).

After the Operation

After the completion of each series of compliance checks, the establishments checked will fall into one of two categories:

- 1) Locations unwilling to sell alcohol to underage decoys
- 2) Locations willing to sell alcohol to decoys

Aggregate results from each round of alcohol age compliance checks should be released widely to the media. Frequently, the first round of compliance checks reveals a troubling lack of compliance with 50% or even 75% of merchants selling to youth decoys.

Results often improve dramatically in subsequent rounds of compliance checks *if retailers are sanctioned*, a good reason to keep going after a disappointing result. The National Academies of Science suggested a national goal of 80% compliance in 2004.⁹ The Wisconsin State Council on Alcohol and Other Drug Abuse (SCAODA) endorsed the national standard for Wisconsin as part of the 2010 report, *Alcohol, Culture and Environment Workgroup Recommendations: Changing Wisconsin's Alcohol Culture to Promote Safe and Healthy Lives*. It is an achievable goal your community can track over a period of years.

The names of establishments willing to sell alcohol to youth should be released to the media after the conclusion of the checks. A brief straightforward release listing the noncomplying establishments encourages retailers to train and monitor identification checking procedures.

In a separate release or list, the names of retailers that refused to sell alcohol to youth decoys should also be released. They should receive letters praising their successful training and screening procedures. In some jurisdictions, community alcohol and drug prevention agencies organize media events to recognize licensees that pass alcohol age compliance checks in addition to volunteer assistance with the operation.

If the compliance rate fails to improve significantly during the second series of checks, it is time to reconsider both the protocol and the consequences for retailers of failing a compliance check. Compliance rates commonly improve steadily in subsequent checks, eventually reaching an acceptably high rate, 80% has been established as a national goal. If that is not happening, coalition leaders, working closely with law enforcement, should consider the barriers blocking progress and consider ways to overcome them. Removing barriers to improvement may require changes in municipal alcohol license review and renewal procedures.

Alcohol age compliance checks support a broader community consensus and an improved community alcohol environment. By utilizing the resources available through local community coalitions, the Underage Drinking Enforcement Training Center and the Wisconsin law enforcement agencies currently conducting effective alcohol age compliance checks, each municipality has the ability to reduce and prevent underage drinking by implementing alcohol age compliance checks.

Alcohol age compliance checks are just one aspect of a comprehensive approach to prevent and reduce underage drinking. No single agency, individual or group can change the community alcohol environment.

Appendix 1: Coalition Tasks in Support of Alcohol Age Compliance Checks

For many years, community coalitions, Police Explorer Scouts and other groups have been volunteering time to support local alcohol age compliance checks. Adult volunteers allow police officers to focus their time on the tasks only they can perform. When federal funding for the Enforcing Underage Drinking Laws program was terminated, many communities quickly discovered that sustaining existing compliance operations or initiating new ones required community support and dedicated partners.

Local logistical support varies widely from community to community. Drug Free Community grants can be used to support alcohol age compliance checks. Often financial support mirrors significant logistical support. In general, the tasks fall into three general categories outlined below, each community must find the combination of law enforcement and coalition support that supports the scope and goals of the operation.

1. Provide logistical and administrative support

Coalitions can provide behind the scenes support such as obtaining the buy-money for each operation and photocopying the cash (to create a record of serial numbers), assembling the paper work and subsequent record keeping for the operation.

Coalitions can obtain a list of all current licensees and mail a pre-notification letter written or approved by the law enforcement agency. Although not required, pre-notification letters are recommended. Compliance with the law is the goal these are not “sting” operations.

A coalition could also assume responsibility for compiling the test results and data into a spreadsheet that tracks each compliance check. The specific role varies with one group collecting only aggregate data and another creating a record for police department purposes. Each law enforcement agency must determine the appropriate data to be collected, its use, and ownership. Tracking citations is a municipal responsibility.

Law enforcement may release the aggregate results at the conclusion of the test period, with the coalition acting in a support role. Some coalitions organize recognition for retailers who have repeatedly demonstrated compliance with the law. A few communities rely on coalitions to tabulate the aggregate results and release them to the media calling attention to both those in compliance and those failing to comply.

2. Recruit and schedule youth decoys for the program.

Youth can purchase tobacco legally beginning at age 18. Youth aging out of tobacco age compliance work, criminal justice students at local colleges and police Explorer Scouts are all good sources of youth decoys. Law enforcement agencies will conduct full background checks on all potential decoys and may have personal appearance requirements.

Multiple youth decoys will be needed; in small communities and rural areas youth should not act as decoys in the home community where they are likely to be recognized. A pool of at least 6 or 7 youth of both genders is suggested.

In some communities youth are paid a stipend after the round of compliance checks is conducted. In Racine, youth receive \$10.00 per hour and are scheduled for four hour blocks of time per day.

Some coalitions take responsibility for scheduling youth for the compliance check operations and providing transportation to and from the police station.

At the request and with the guidance of primary law enforcement agency, local coalitions can schedule, organize and, in some cases, provide training to youth decoys at requested intervals. At a minimum, youth decoys need an orientation before the first operation outlining the steps to a sale, what to expect and common scenarios.

Before beginning each shift, youth should be photographed creating a record of how they were dressed and groomed during the operation. Digital photos can be pasted right into the file of any later citations.

Some coalitions provide an adult volunteer to ride along with the officer and decoy as a witness to the operation.

3. Vocally and publicly support alcohol age compliance checks and other actions that enforce Minimum Legal Drinking Age Laws.

Every coalition should organize vocal citizen support for the law enforcement agency conducting alcohol age compliance checks, including letters to the editor of local media outlets and calls of support to local elected officials such as Aldermen or the Police Commission.

The police need community support to take actions designed to prevent or reduce underage drinking and alcohol misuse, including age compliance checks. Law enforcement agencies can experience substantial push-back from trade and industry groups; unless the community coalition articulates community support elected officials may conclude the community does not support compliance check operation.

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⁵ Alcohol Epidemiology Program. *Alcohol compliance checks: A procedures manual for enforcing alcohol age-of-sale laws*. Minneapolis: University of Minnesota, 2000. New Hampshire Liquor Commission, Division of Enforcement & Licensing, Compliance Checks Policy, <http://www.nh.gov/liquor/enforcement/about-us/documents/compliance-checks.pdf>. Selective Alcohol and Tobacco Initiative. accessed online 1/18/13

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⁷ Toomey & Wagenaar, Policy Options for Prevention (1999)

⁸ Conversation with Francie Peardon, Eau Claire Public Health Department, December 2012.

⁹ National Research Council and Institute of Medicine (2004), Reducing Underage Drinking: A Collective Responsibility. Committee on Developing a Strategy to Reduce and Prevent Underage Drinking, Richard J. Bonnie and Mary Ellen O'Connell, Editors. Board on Children, Youth and Families, Division of Behavioral and Social Sciences and Education. Washington D.C. The National Academies Press.