

NEBRASKA STATE PATROL

Introduction to Liquor
Laws/Enforcement

NEBRASKA LIQUOR CONTROL COMMISSION

- The Liquor Control Commission consist of three commissioners.
 - Bruce Bailey, Janice Wiebusch and Harry Hoch Jr.
 - They are appointed by the Governor.
 - Commissioners serve a six year term.
 - The commissioners act as a three judge panel.

NEBRASKA LIQUOR CONTROL COMMISSION

Executive Director – Hobert Rupe (402-471-2574)

Attorney General's Office – Milissa Johnson-Wiles

Legal/Enforcement- Jill Nelson (402-471-4889)

Licensing- Jackie Matulka (402-471-4881)

Audit Division – LeAnna Prange (402-471-4892)

Revenue- Deb Jacobson (402-471-4886)

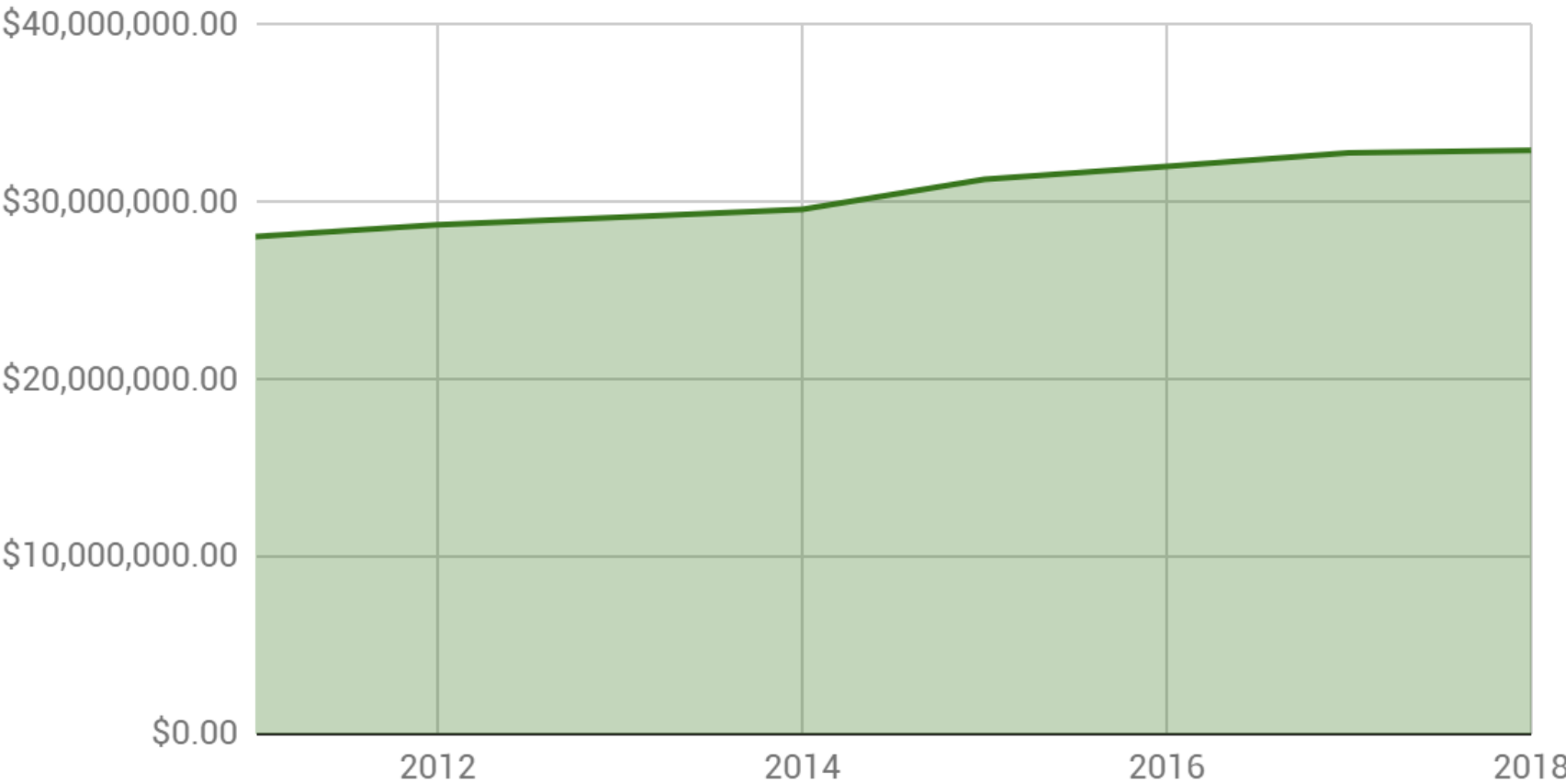
Enforcement – Shane Flynn, Nebraska State Patrol

Nebraska Liquor Commission Web-Site, lcc.nebraska.gov

Alcohol Taxes

- Spirits - \$3.75 per gallon.
- Beer – 31 cents per gallon.
- Wine – 95 cents per gallon.
- Wine (Farm Winery) – 6 cents per gallon.

Alcohol Tax Collected by Year



Grade—Regular Unleaded

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2020	\$2.42	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2019	\$2.07	\$2.20	\$2.48	\$2.72	\$2.75	\$2.62	\$2.61	\$2.52	\$2.48	\$2.48	\$2.47	\$2.42
2018	\$2.50	\$2.57	\$2.53	\$2.60	\$2.78	\$2.81	\$2.75	\$2.74	\$2.76	\$2.82	\$2.53	\$2.18
2017	\$2.36	\$2.33	\$2.30	\$2.35	\$2.31	\$2.26	\$2.22	\$2.32	\$2.52	\$2.42	\$2.54	\$2.42
2016	\$1.87	\$1.68	\$1.98	\$2.07	\$2.22	\$2.33	\$2.22	\$2.17	\$2.21	\$2.24	\$2.13	\$2.19
2015	\$2.01	\$2.18	\$2.42	\$2.40	\$2.56	\$2.68	\$2.71	\$2.68	\$2.46	\$2.43	\$2.25	\$2.01
2014	\$3.19	\$3.32	\$3.53	\$3.59	\$3.52	\$3.55	\$3.50	\$3.41	\$3.36	\$3.18	\$3.00	\$2.51
2013	\$3.19	\$3.64	\$3.66	\$3.48	\$3.76	\$3.64	\$3.56	\$3.59	\$3.61	\$3.31	\$3.12	\$3.10
2012	\$3.27	\$3.49	\$3.80	\$3.81	\$3.61	\$3.50	\$3.50	\$3.71	\$3.88	\$3.70	\$3.38	\$3.26

Source of Tax	Revenue*
Motor Fuel Tax	\$375,639,015
Motor Vehicle Registration Tax	\$278,864,607
Insurance Premium Tax	\$101,738,577
Inheritance Tax	\$70,455,833
Cigarette Tax	\$50,296,771
Alcoholic Beverages Tax	\$31,352,836
Franchise Tax	\$27,500,000
Documentary Stamp Tax	\$26,698,122
Motor Vehicle Registration Fee	\$23,976,546
County Lodging Tax	\$21,490,169
Corporation Occupation Tax	\$13,700,000
Petroleum Release Remedial Action Fee	\$11,418,623
Tobacco Products Tax	\$9,602,429
Charitable Gaming Taxes	\$5,897,943
State Lodging Tax	\$5,762,025
Oil and Gas Severance Tax	\$3,106,620
Aircraft Fuels Tax	\$1,714,355
Mechanical Amusements Tax	\$469,725
Oil and Gas Conservation Tax	\$790,000
Pari-mutuel Wagering Tax	\$140,000
Uranium Severance Tax**	\$0

* Revenue is from calendar year or fiscal year 2018, except for inheritance tax and franchise tax, which are from 2017 and 2016 respectively (most recent data available), and corporation occupation tax, which is a two-year total.

** Uranium was not mined in a quantity large enough to provide for the collection of a severance tax in 2018.

The Commission as general guideline will only look at the previous four years history from the date of the offense, for purposes of setting a penalty on a second or subsequent conviction.
 Note: If previous violation is ten (10) years or longer, penalty could be half.

VIOLATION	PENALTY SCHEDULE			
	1 ST	2 ND	3 RD	4 TH
	Days Suspended	Days Suspended	Days Suspended	Days Suspended
ALLOWING ANOTHER TO OPERATE ON LICENSE	20-40	CANCEL		
DISTRUBANCE: Not involving serious injury or death	5-15	10-20	20-30	CANCEL
Involving serious injury or death	10-20	20-40	40-60	
DELINQUENT CREDIT	5	7	9	CANCEL
FAILURE TO COMPLY WITH ORDER OF COMMISSION	20-40	CANCEL		
FAILURE TO KEEP RECORD OF QUANTITATIVE SALES	5-10	10-20	20-30	CANCEL
FAILURE TO PERMIT TIMELY ENTRY	10-20	20-40	40-60	CANCEL
ILLEGAL ACTIVITIES	10-20	20-30	30-40	CANCEL
ILLEGAL ACTIVITIES: GAMBLING	5-10	10-20	20-30	CANCEL
ILLEGAL ACTIVITIES: GAMBLING DEVICE WITH CONVICTION	20	CANCEL		
LATE RENEWALS	1-3 DAYS LATE-1 DAY; 4-7 DAYS LATE-2 DAYS; 8-11 DAYS LATE -3 DAYS; 12-30 DAYS LATE – 5 DAYS; OVER 30 DAYS LATE WILL REQUIRE THE FILING OF A NEW LONG FORM APPLICATION			
MINOR DISPENSING LIQUOR	10-20	20-40	40-60	CANCEL
OPEN CONTAINERS OFF LICENSED PREMISE	5-10	10-20	20-30	CANCEL
OPEN CONTAINERS AFTER HOURS	5-10	10-20	20-30	CANCEL
OTHER VIOLATION NOT SPECIFICALLY LISTED: FAILURE TO HAVE LICENSE FRAMED AND HUNG; FAILURE TO HAVE 'WARNING TO MINOR' SIGN OR PREGNANCY POSTER DISPLAYED	5-10	10-20	20-30	
PURCHASE FROM OTHER THAN A WHOLESALER	5-10	10-20	20-30	CANCEL
REFILLING	5-10	10-20	20-30	CANCEL
SALE FOR RESALE: A. Without actual knowledge B. With actual knowledge	5-10 10-20	10-20 20-30	20-30 CANCEL	CANCEL
SALE OFF LICENSED PREMISES	5-10	10-20	20-30	CANCEL
SALE ON CREDIT	5-10	10-20	20-30	CANCEL
SALE TO VISIBLY INTOXICATED PERSON	10-20	20-40	40-60	CANCEL

*SALE TO MINOR & MINOR IN POSSESSION DO NOT WORK INDEPENDENTLY BUT ARE COMBINED TOGETHER.

* FOR ANY PENALTY IN ABEYANCE, PENALTY WILL BE TRIPLE PER ABOVE

* 1ST SUSPENSION IS \$50.00 PER DAY. ALL SUBSEQUENT SUSPENSIONS ARE \$100.00 PER DAY

Disclaimer: These are general guidelines used to establish penalties for violations of the Nebraska Liquor Control Act and the Rules and Regulations of the Nebraska Liquor Control Commission. The Commission reserves the option to deviate from these guidelines to encourage voluntary compliance with the act and regulations, and ensure the public health, safety and welfare, as necessary when circumstances merit such deviation.

The Commission as general guideline will only look at the previous four years history from the date of the offense, for purposes of setting a penalty on a second or subsequent conviction.
 Note: If previous violation is ten (10) years or longer, penalty could be half.

VIOLATION	PENALTY SCHEDULE			
	1 ST	2 ND	3 RD	4 TH
	Days Suspended	Days Suspended	Days Suspended	
SALES TO A MINOR; MINOR CONSUME/POSSESS (Multiple minors may result in higher penalty)	10-20	<ul style="list-style-type: none"> • Within 4 years - 2 days close + 20 days • Within 3 years - 2 days close + 30 days • Within 2 years - 2 days close +40 days • Within 1 year - 2 days close + 50 days 	<ul style="list-style-type: none"> • Within 4 years - 5 days close +20 days • Within 3 years- 10 days close +30 days • Within 2 years-12 days close + 40 days • Within 1 years-15 days close +50 days 	CANCEL
SANITATION	5-10	10-20	20-30	CANCEL
UNAUTHORIZED SALES: Such as liquor or wine sales from beer license, off premises sales from on premises only license; unlawful delivery	5-10	10-20	20-30	CANCEL
VIOLATION OF SPOUSAL AFFIDAVIT	CANCEL			

*SALE TO MINOR & MINOR IN POSSESSION DO NOT WORK INDEPENDENTLY BUT ARE COMBINED TOGETHER.

* FOR ANY PENALTY IN ABEYANCE, PENALTY WILL BE TRIPLE PER ABOVE

* 1ST SUSPENSION IS \$50.00 PER DAY. ALL SUBSEQUENT SUSPENSIONS ARE \$100.00 PER DAY.

*EXCEPTION WOULD BE WHEN PREVIOUS SUSPENSION IS OLDER THAN FOUR YEARS; THEN SUSPENSION REVERTS BACK TO \$50.00 PER DAY.

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Can I give alcohol away?

- It is not a violation to give alcohol away. However, there are some issues you should be aware of;
 - You may not give alcohol away to avoid any provision of the Liquor Control Act.
 - You may not give alcohol away to a person who is visibly intoxicated.
 - You may not give away more than one free drink to a person at a time.
 - You may not give away a free drink as part of or as a condition of a purchase of another drink.
 - You may not give away a free drink as part of a cover or entry charge to your business.
 - You may not give alcohol away in any circumstances that would also prohibit you from selling the alcohol.

When can minors be in bars?

- There is no NLCC regulation or state statute that prohibits minors from being in a bar at any time, however, there may be some local ordinance that sets specific hours and circumstances when minors may be in liquor establishments-check with your city and/or county clerk for more information.

Can bartenders drink on duty?

- There is no NLCC regulation or state statute that prohibits bartenders or other staff members from consuming alcohol while on duty, however, there could be a local ordinance-check with your city or county clerk for more information. It is not allowed for a staff member to be visibly intoxicated and consuming alcohol while on duty or on the license premise.

Can people be in liquor establishment after hours?

- There is no NLCC regulation or state statute that prohibits anyone from being inside a business holding liquor license after legal hours of sale as long as alcohol is not being consumed.

Can employees drink after hours?

No!!!!

There are no exceptions to alcohol being consumed or sold after hours.

If I rent out my business for a private party or event is the renter the only one responsible for violations?

- The liquor license holder and their employees are responsible for complying with the liquor control act and NLCC regulations even if the business is closed to the public for an event.

Can people play cards in a business with a liquor license?

- Yes, as long as there isn't any gambling.
- Consideration
- Chance
- Reward

At what age can you serve, sell or stock?

- At 16 years old, an employee may stock, sack and carry out alcoholic beverages from licensed establishments. This employee must be supervised by a person 21 years of age or older (can be the customer/purchaser).
- At 16 years old, an employee is allowed to complete a transaction for sale of alcohol in the course of their employment.
- At 19 years old, an employee may serve, sell and dispense alcoholic beverages. They may also place orders and accept deliveries of alcoholic beverages from a licensed wholesaler at the premise.

Tavern Reports

- Who, what, where, when and how.

Additional information to be obtained:

Video.

Witness statements.

Manager/employee on duty.

Violaton(s).

Liquor license number.

Contact NSP for assistance if needed.

A department report is acceptable and should be sent to the NLCC.



OMAHA POLICE DEPARTMENT



Liquor Establishment/Tavern Incident Report

Reported on (Date/Time)	Data No.	District No.	Conv. Code	RB No.
Establishment/Tavern Name	Establishment/Tavern Address - City/State/Zip		Phone	
Owner Name (Last/First/Middle)	Owner Address - City/State/Zip		Phone	
Manager/Employee Name (Last/First/Middle)	Manager/Employee Address - City/State/Zip		Phone	
Corporation Name		Liquor License No.		
Complainant Name (Last/First/Middle)	Complainant Address - City/State/Zip		Phone	

VIOLATIONS OF CITY ORDINANCES

- ☐ Open Containers on Licensed Premises after Closing Hours (15-3)
- ☐ Sale to Minors or Incapacitated Persons (15-4)
- ☐ Purchase for Minors (15-7)
- ☐ Procuring by Minors (15-8)
- ☐ Failure to Display Liquor License (15-43)
- ☐ Disorderly Conduct (20-42)
- ☐ Assault, Battery (20-61)
- ☐ Indecent Exposure (20-114)
- ☐ Other _____

VIOLATIONS OF STATE STATUTES

- ☐ Sexual Assault (28-317 et seq.)
- ☐ Controlled Substances (28-416)
- ☐ Sale or Possession by Minor in Public Place (53-180.02)
- ☐ Other _____

LOCATION OF INCIDENT

- ☐ Inside ☐ Outside (Parking Facility or Public Way)

ARRESTS MADE

- ☐ Yes ☐ No

REMARKS

Other Reports Completed ☐ UCR ☐ Information ☐ Other _____

First Reporting Officer's Signature/Serial No.	Second Reporting Officer's Signature/Serial No.
Approved By (Command Officer's Signature/Serial No.)	

Disposition/Action Taken by Vice Unit ☐ File ☐ Forwarded/Nebraska Liquor Control Commission

Disturbance

- No licensee or partner, principal, agent or employee of any licensee shall allow any unreasonable disturbance; as such term is defined hereunder, to continue without taking the steps, as set forth hereunder, within a licensed premise or in adjacent related outdoor areas.

Disturbance (cont.)

- A "Disturbance" as used in this section shall mean any brawl, fight, or other activity which may endanger the patrons, employees, law enforcement officers, or members of the general public within licensed premises or adjacent related outdoor area. Such term shall include incidents involving, but not necessarily limited to: drug dealing; intoxicated individuals; soliciting of prostitution; or any physical contact between the licensee's agents or employees and its customers, involving any kissing, or any touching of the breast, buttock or genital areas. Any brawl fight or other activity which results in serious injury to any patron, employee or members of the general public shall be reported to law enforcement. Serious injury means any gunshot wound, knife or other stab wound or any other injury requiring medical treatment onsite or transportation to a medical facility for treatment. Licensees and their employees shall not prohibit or interfere in any way with a patron who chooses to contact law enforcement in the event they are assaulted on the premise

Disturbance (cont.)

- Unless there is reason to believe that a licensee or partner, principal, agent or employee of any licensee would endanger himself/herself or others, such person shall take such action as is reasonably necessary to terminate the disturbance.
- Physical force should be exercised only in extreme circumstances and should be limited to the force reasonably required to terminate the disturbance and remove the individual from the licensed premise, without endangering any patron or other person.

Disturbance (cont.)

- In the event efforts taken in accordance with the preceding subparagraph are not successful or if there is reason to believe that the licensee, partner, principal, agent or employee of any licensee may create a danger to himself/herself or others, then in such event, such person shall immediately contact law enforcement personnel to assist in properly handling the disturbance. In the event law enforcement and/or medical personnel are summoned, the directions and/or orders given by such law enforcement or medical personnel shall be followed.

Disturbance (cont.)

- A licensee who has conformed with the procedure as set forth in this section shall be deemed to have not permitted a disturbance to occur and continue. Licensees who wish to document their compliance with this rule may maintain a log in which they document disturbances or other unusual occurrences.

Entry Into Premise by Law Enforcement Officer

- No licensee or partner, principal, agent or employee of any licensee shall refuse to permit or unreasonably delay in permitting any law enforcement officers, duly appointed investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission entry onto the licensed premises at any time demand for such entry is made by such law enforcement officer, investigator, inspector, agent or auditor of the Nebraska Liquor Control Commission.

PARTY BUS

- Legislature - First Session - 2019
- Introducer's Statement of Intent
- LB734
- Chairperson: Senator Tom Briesse
- Committee: General Affairs
- Date of Hearing: March 04, 2019
- To provide for licensure of charter bus services under the Nebraska Liquor Control Act.

Home Brewers

- See handout

GUIDELINES FOR USING UNDERAGE COOPERATING INDIVIDUALS DURING COMPLIANCE CHECKS

53-1,122 authorizes law enforcement to conduct alcohol compliance checks, pursuant to guidelines adopted and promulgated by the Nebraska State Patrol with input from the Nebraska Liquor Control Commission (NLCC). The following guidelines have been established when using underage individuals to conduct alcohol compliance checks. Compliance checks shall only be conducted in order to further the public policy of deterring minors from illegally obtaining or consuming alcoholic liquor and compliance with 53-180 & 53-180.02.

Prior to conducting compliance checks a list of randomly chosen locations should be developed. It is appropriate to add 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.) Once a location that has failed previous compliance checks passes a subsequent check, they be should be removed from the prior failure list. If sufficient personnel are available, it is also appropriate to check all the locations in a certain geographic area or with the same license class. Law enforcement officers should oversee the location selection process.

Parental permission is required for cooperating individuals under the age of 21 (unless emancipated). Minors selected as C.I.s 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, including clothing, facial hair and makeup. Hat or caps if worn, should be worn in a manner that is normal for their age and shall not be pulled down over their eyes. Minors who are 20 years of age shall not be used in the same calendar year they turn 21.

C.I.s shall be informed that they are required to appear and testify before the NLCC if needed. When appearing before the NLCC, the C.I.'s appearance should be 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. If the C.I. is paid for conducting compliance checks, payment should be made on an hourly or daily basis and shall not be paid based on the number of checks or the number of purchases. 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 discouraged by the NLCC.

C.I.s 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 type and quantity of alcohol purchased shall be reasonable for the age individual and reflect the marketplace.

Underage C.I.s should be specifically instructed:

- Not to use a disguise that makes them appear older than they actually are.
- To only use their own personal, valid identification, i.e., driver's license, state I.D., etc.
- The Underage Cooperating individual may indicate they are of legal if age related questions are asked, when no I.D. is requested. However the Underage Cooperating Individual shall produce their valid identification if requested.
- To correctly fill out the documentary proof of age booklet if requested to do so. In order to protect the safety of the C.I. they 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."
- That departing from the guidelines is grounds for dismissal as an Underage Cooperating Individual.
- Any convictions of law violations; in particular use of tobacco or alcohol is grounds for dismissal.
- If their ID is scanned by any electronic device, they shall notify officers conducting the compliance checks.

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.)
 - Photograph the minor prior to beginning the compliance check. Several photos may 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, avoid consuming alcohol themselves.
 - Ensure C.I. safety by monitoring the C.I.s conversation with a transmitter or other equipment if practical and if such equipment is available.
 - 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.
 - If the identification of the Underage Cooperating Individual is scanned by any electronic device, officers shall enter the premises to determine if any information collected is in compliance with 60-4,111.01, only the age and license or card number may be retained by such a device. Officers may enter the premises immediately following the compliance check, or have a separate team of officers enter the premises to verify what information is collected and to check for required signs notifying patrons that their ID may be scanned.

Upon detection of a violation:

- The sales clerk should be issued a criminal citation to court 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 which includes a brief statement regarding the instructions that the C.I. was given prior to the compliance check. The report may also indicate that these guidelines were followed. 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 in the sale and other witnesses if appropriate; 5) if the C.I.'s identification was checked and if he 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 officers reports contain all the elements of a violation, are accurate and are complete enough to refresh your memory prior to providing testimony.*

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

It is requested that the results of any compliance check be sent to the State Patrol Alcohol Tobacco Enforcement Coordinator in order to maintain an accurate statewide database of compliance rates, I.D.'s checked and the ages of the C.I.s used.

Upon request the State Patrol can provide law enforcement agencies pre printed compliance check forms as well as sample forms for parental permission, C.I. agreements, C.I. briefing sheets, violation reports, and congratulatory letters. Questions, comments, suggestions and requests for more information or training should be directed to:

Nebraska State Patrol, Alcohol-Tobacco Enforcement Coordinator, (402) 471-8494

QUESTIONS?

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