

Medina Police Department

Subject: Protocol For Conducting Compliance Checks		Policy Number: 2250	Compliance Checks 2250
Reference: 340A.503, 340A.414.		Pages: 5	
Personnel: Sworn and Non-Sworn Personnel			
Issue Date: 07-07-2004	Revised Date: 11-16-2020	Review Date: As Needed	

2250.1 – PURPOSE

To establish a uniform process for conducting Alcohol Compliance Checks in the cities of Medina and Loretto.

2250.2 - DISCUSSION

2250.2.1 - Alcohol Related State Statutes:

340A.503 Person under 21 illegal acts:

Subd. 1. Consumption. (a). It is unlawful for any:

(1) retail intoxication liquor or 3.2 percent malt liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 to drink alcoholic beverages on the licensed premises or within the municipal liquor store.

Subd.2. Purchasing. It is unlawful for any person:

(1.) to sell, barter, furnish, or give alcoholic beverages to a person under 21 years of age.

2250.2.2- Related City of Medina Ordinances:

635.07. Offenses, Intoxicating Liquor. It shall be unlawful for:

Subd.1. A minor to enter any premises licensed for the retail sale of intoxicating liquor for the purpose of purchasing or having served or delivered to him or her, any intoxicating liquor, or

Subd.2. A minor to consume any intoxicating liquor or to purchase, attempt to purchase, or have another purchase for him or her any intoxicating liquor, or

Subd.3. Any person to misrepresent or misstate his or her age, or the age of any other person for the purpose of inducing any licensee or any employee or any licensee, to sell, serve, or deliver any intoxication liquor to a minor, or

Subd.4. A minor to have in his or her possession any intoxicating liquor, with intent to consume same at a place other than the household of his parent or guardian. Possession of such intoxicating liquor at a place other than the household of his or her parent or guardian is prima facie evidence of intent to consume same at a place other than the household of his or her parent or guardian.

625.24. Conditions of License:

Subd.1. Every license granted is subject to the provisions of this ordinance and state law, and to the following conditions:

(c) any peace officer, health officer, or any properly designated officer or employee of the City or State including representatives of the Minnesota Commissioner of Public safety, shall have the unqualified right enter, inspect and search the licensed premises during business hours without a warrant.

(f) no licensee shall permit any minor to consume alcoholic beverages on the licensed premises. It shall be unlawful for any person to sell alcoholic beverages to a minor, except that a parent or guardian of a minor may give alcoholic beverages to that person solely for the consumption and solely in the household of the parent or guardian.

2250.2.3 - Related City of Loretto Ordinances:

903:75 Alcohol Violations

Subd 1. Sales to Underage Persons or Intoxicated Persons.

No alcoholic beverage shall be sold or served to an obviously intoxicated person or to a person under 21 years of age.

Subd. 2. Consumption of Underage Person.

No underage person may be permitted to consume an alcoholic beverage on a licensed premises.

2250.3 - POLICY

2250.3.1 - Valid Proof of Age:

The State of Minnesota under statute 340A.503.

Persons under 21; illegal acts, Subd. 6 paragraph (a), recognizes only four (4) forms of identification as proper Proof of Age. The four (4) are;

- (1) **A valid driver’s license or identification card** issued by Minnesota, another state, or a province of Canada, and **including the photograph and date of birth** of the licensed person.
- (2) A valid military identification card issued by the United States Department of Defense.
- (3) A valid passport issued by the United States.
- (4) In the case of a foreign national, by a valid passport.

2250.3.2 - Good Faith Defense:

Minnesota State Statute 340A.503

Subd.6 (b) it is a defense for the defendant if: In a prosecution under subdivision 2, clause (1), it is a defense for the defendant to prove by a preponderance of the evidence that the defendant reasonably and in good faith relied upon representations of proof of age authorized in 340A.503 Subd.6. paragraph (a.) in selling, bartering, furnishing, or giving the alcoholic beverage.

2250.3.3 - Selecting a Buyer:

In an effort to provide a professional and credible compliance check program, persons selected to be undercover buyers should not have a history of prior alcohol or drug use, history of using or possessing false identification, or criminal history.

2250.3.4 - Buyer Requirements:

- (1) 18-20 years of age. Selecting a buyer who will still be under the age of 21 at trial in the event of a court hearing may be beneficial.
- (2) Female-of average physical size and proportion.
- (3) Male-of average physical size and proportion, no facial hair.
- (4) Have a valid Minnesota Identification Card or a valid Minnesota Driver's License.

2250.3.5 - Buyer Training:

The buyer will be instructed in the compliance check process, and the possibility of being a witness in any criminal or administrative hearings that may result from a "fail". Buyers will watch the Compliance Check Training Video and discuss any questions with the officer running the compliance checks:

Buyers will be given the following instructions:

- Not to consume any alcohol under any circumstances.
- Talk as little as possible during the compliance check. By following this advice, the buyer keeps the encounter simple and helps eliminate an entrapment defense in the event of a "fail".
- Not to lie to the seller if asked their age. If asked their age, the buyer will give the seller their date of birth instead of their age.
- Females-wear little or no makeup, no jewelry or hats.
- Males-no facial hair, jewelry, or hats.
- In all cases, the buyer will not attempt to make him/her appear older. The buyer's appearance should be such that most reasonable people would assume he/she is under 21.
- If the buyer recognizes the server or clerk, he/she will immediately inform the officer and leave the establishment.
- No carrying of purses or bags into the establishment.
- Only the cash needed for purchase will be carried into the establishment.
- Not to carry any identification on him/her.

2250.3.6 - Type of Alcohol to be Purchased:

The buyer will always attempt to purchase a well-known bottle of domestic beer. In the event that that the beer is not available in the bottle, it will be ordered on tap. If the beer is not available on tap, the buyer will ask for another brand of beer.

*Note – If a plain clothes officer is in the bar, he/she will always order a non-alcoholic beverage.

2250.3.7 - Pre-Check Procedure:

Prior to heading out to perform the compliance checks, the following will be done.

- The buyer will complete the buyer training listed above.
- The officer will make a photocopy of the buyer's driver's license.
- The buyer will remove all items from his/her person to INCLUDE IDENTIFICATION. The buyer will carry no identification on him/her.
- The officer will take a photograph of the buyer.
- The officer will administer a PBT Test to the buyer. (in the event the buyer has alcohol on his/her breath, no compliance check will be performed.)
- The officer will give the buy money to the buyer. The buyer will not carry any money other than the buy money on his/her person.

2250.3.8 - On-Sale Compliance Check Procedures:

- Officer in plain clothes enters the business first. (In the event the officer feels the bar employees may recognize him/her as a police officer, an officer from another department may be used. This must be approved by the patrol sergeant or Chief of Police.)
- Officer selects a location where there are open seats available for the buyer to use.
- Officer places order for a non-alcoholic beverage.
- Buyer enters business shortly after officer and takes a seat near the officer, but not directly next to the officer.
- Buyer places an order for a well know brand of beer in the bottle.
- Buyer will not debate his/her age or attempt to sway the server.
- If asked for an ID, the buyer will state it is in his/her vehicle and say he/she will go get it and exit the bar.
- If asked his/her age, the buyer will provide his/her true date of birth.
- In the event of a sale to the underage buyer, the buyer will pay for the beverage.
- THE BUYER WILL NOT CONSUME ANY OF THE ALCOHOL.
- The plain clothes officer will identify his/herself to the server and advise them they failed the check. The server's manager or owner should be notified if possible.
- The officer will collect the beverage served as evidence.
- The officer will then go with the server to a private area of the business, or out to the squad car, and gather the necessary information.
- The officer will allow the employee to complete a statement if the employee wishes to o so.
- No citations will be issued. The charges will be sent in on a formal complaint.

2250.3.9 - Off-Sale Compliance Check Procedures:

- Officer in plain clothes enters the business first.
- Buyer enters the business and goes to the beer cooler and selects a 12-pack of a well known brand of beer in the bottle.
- Buyer goes straight to the check-out, followed by officer.
- Buyer does not debate his/her age or attempt to sway the clerk.

- If asked for an ID, the buyer will state it is in his/her vehicle and say he/she will go and get it, and exit the business.
- In the event of a sale, the buyer will take the beer and receipt, and exit the store, the officer will follow.
- The officer will then take possession of the beer and return to the clerk whom sold the beer.
- The officer will identify him/herself to the clerk and advise them of the “fail”.
- The officer will follow the same procedures as an on-sale “fail”
- Note – If the server or the clerk of any fail cannot be identified, he/she will be taken into custody and booked into Hennepin County.
- Note – The officer will not allow the clerk, server, or manager to personally confront the buyer.
- Note – In both on and off-sale “fails” the person who hands the beverage to the buyer is the violator.

2250.4.0 – EVIDENCE PROCESSING:

All evidence will be immediately sealed and properly labeled. The evidence will be properly secured at the Medina Police Department in the officer’s property locker.

2250.4.1 - Processing a “Pass” Compliance Check:

In the event of a pass, the buyer and officer will exit the business. They will then move onto the next business. All businesses that pass the compliance checks will be notified by the officer after all compliance checks are complete. The reason for this is to avoid employees contacting other businesses and advising them of the checks.

2250.4.2 - Completing the Report Process:

- The officer will generate a call for each compliance check on their log and clear it once the check is complete to keep an accurate account of time spent at the location.
- In the event of a fail, the buyer will complete a written statement documenting the events.
- The officer will complete a report for each compliance check conducted, regardless if the check ended in a pass or fail.
- The officer will submit fail reports for the issuance of a formal complaint.