

**CHAPTER 23. ADMINISTRATION OF THE
BUREAU OF LIQUOR CONTROL ENFORCEMENT
AGE COMPLIANCE CHECK PROGRAM**

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Authority

The provisions of this Chapter 23 issued under section 1 of the act of December 3, 2002 (P.L. 1144, No. 141), unless otherwise noted.

Source

The provisions of this Chapter 23 adopted November 24, 2004, effective November 27, 2004, 34 Pa.B. 6325, unless otherwise noted.

GENERAL PROVISIONS

§ 23.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

Age compliance check—An undercover investigation of a licensed premises during which an underage buyer purchases or attempts to purchase liquor or malt or brewed beverages under the supervision of a Bureau officer.

Board-approved manager—A person appointed or designated by the licensee and approved by the Liquor Control Board under 40 Pa. Code § 5.16, § 5.17 or § 5.23 (relating to appointment of managers, distributor or importing distributor licensees: appointment of manager; and appointment of managers).

Bureau officer—A State Police officer or liquor enforcement officer who is assigned to an age compliance check.

Compliance—Refusing sale or service of liquor or malt or brewed beverages to the underage buyer as required by section 493(1) of the Liquor Code (47 P. S. § 4-493(1)).

Enforcement Bureau or Bureau—The Bureau of Liquor Control Enforcement of the State Police.

Licensed premises—A business licensed by the Liquor Control Board to sell liquor or malt or brewed beverages in this Commonwealth.

Liquor—Includes any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks and drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol usable or taxable for beverage purposes which contain more than .5% of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages.

Malt or brewed beverages—Any beer, lager beer, ale, porter or similar fermented malt beverage containing .5% or more of alcohol by volume, by whatever name the beverage may be called.

Purchase—Obtaining food, nonalcoholic beverages, liquor, alcohol or malt or brewed beverages for consideration.

Sale or sell—The transfer of liquor, alcohol or malt or brewed beverages for consideration.

Underage buyer—An individual between 18 and 20 years of age who is an officer, employee or intern of the Enforcement Bureau and participates in an age compliance check.

COMPLIANCE CHECKS

§ 23.21. Required training.

(a) *Bureau officers.* Before participating in an age compliance check, Bureau officers shall complete training approved by the Enforcement Bureau.

(b) *Underage buyers.* Before participating in an age compliance check, an underage buyer shall:

(1) Complete a training course prescribed by the Enforcement Bureau, which includes instruction in at least the following areas of study:

- (i) Sections 493(1) and 493(14) of the Liquor Code (47 P. S. §§ 4-493(1) and 4-493(14)) and 18 Pa.C.S. §§ 6307—6310.3.
- (ii) Safety protocols.
- (iii) Undercover investigations.
- (iv) Testifying in court.
- (v) Alcohol abuse.

(2) Pass an examination administered by the Enforcement Bureau.

§ 23.22. Age compliance checks.

(a) The age compliance check shall be conducted with at least one Bureau officer for each underage buyer.

(b) A Bureau officer shall be in charge of the age compliance check.

(c) A Bureau officer shall enter and remain inside the licensed premises during the age compliance check.

(d) The age compliance check shall be conducted at the licensed premises during regular business hours.

(e) The Bureau officer shall observe the activity inside the licensed premises and determine if it is safe and appropriate to conduct the age compliance check.

(f) Underage buyers may purchase or attempt to purchase liquor or malt or brewed beverages only during an age compliance check and only while under the direct supervision of a Bureau officer.

(g) Underage buyers may not consume liquor or malt or brewed beverages.

(h) If an underage buyer removes the liquor or malt or brewed beverages from the licensed premises, the underage buyer shall deliver the liquor or malt or brewed beverages to the Bureau officer as soon as possible, consistent with safety protocols.

§ 23.23. Notification of results of age compliance check.

A Bureau officer will be responsible for insuring notification is made of the results of the age compliance check to the Board-approved manager or person in charge of the licensed premises.

(1) If the licensed premises is not in compliance, immediate verbal notification will be provided followed by written notification within 10 working days.

(2) If the licensed premises is found to be in compliance, written notification of compliance will be provided within 10 working days.

(3) Verbal and written notification will include the date and time of the compliance check as well as the name of the server if known.

Notes of Decisions

Section 23.23(1) does not apply only when the Bureau has to make an effective defense for an underage buyer engaging in the Bureau Age Compliance Check Program. The Bureau is always required to comply with § 23.23(1) without exception because 18 Pa.C.S. § 6308(e) shields an underage buyer engaging in the Bureau Age Compliance Check Program from criminal prosecution. Furthermore, the Bureau is always required to comply with § 23.23(1) because § 23.23(1) mandates without exception that immediate verbal notice must be provided by the Bureau to the licensee who violated the Bureau Age Compliance check Program. *Eric's Sports Bar, Inc. v. Pennsylvania State Police, Bureau of Liquor Control*, 6A.3d 663, 667 (Pa. Cmwlth. 2010).

§ 23.24. [Reserved].

Source

The provisions of this § 23.24 reserved April 4, 2008, effective November 27, 2004, 38 Pa.B. 1587. Immediately preceding text appears at serial page (307953).

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