

# Regulatory Analysis Form

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IRRC REVIEW COMMISSION

(1) Agency

Pennsylvania State Police

(2) I.D. Number (Governor's Office Use)

17-64

IRRC Number: 2372

(3) Short Title

Liquor Control Enforcement Age Compliance Checks  
Administration of the Age Compliance Program

(4) PA Code Cite

Title 37. Law  
Part I. State Police  
Chapter 23. Administration of the  
Bureau of Liquor Control Enforcement  
Age Compliance Check Program

(5) Agency Contacts & Telephone Numbers

Primary Contact: Syndi L. Guido, Policy Director  
717-772-0905

Secondary Contact: Major Leonard McDonald  
717-540-7410

(6) Type of Rulemaking (check one)

- Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation prescribes the manner in which the Pennsylvania State Police, Bureau of Liquor Control Enforcement will conduct undercover investigations of establishments licensed to sell alcoholic beverages through the use of underage buyers between the ages of 18 and 20 who purchase or attempt to purchase alcohol under the supervision of a Pennsylvania State Police Trooper assigned to the Bureau, or a Liquor Enforcement Officer. The underage buyers must undergo approved training. After a compliance check is conducted, the Bureau will notify the licensee of the outcome. If the licensee is not in compliance, he will be given immediate verbal notice with written notice being sent within 10 working days. The licensee will also be cited for furnishing alcoholic beverages to a minor under § 493(1) of the Liquor Code. If the licensee is in compliance, he will receive written notice only.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The regulation is authorized by 18 Pa.C.S. § 6308(e)(3). There are no relevant court decisions.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The Act of 1972, Dec. 6, P.L. 1482, No. 334, as amended by the Act of 2002, Dec. 3, P.L. 1144, No. 141, § 1 (18 Pa.C.S. § 6308(e)(3)), requires the State Police to promulgate regulations prescribing the manner in which age compliance checks are performed.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The Act of 1972, Dec. 6, P.L. 1482, No. 334, as amended by the Act of 2002, Dec. 3, P.L. 1144, No. 141, § 1 (18 Pa.C.S. § 6308(e)(3)), allows individuals under the age of 21 to purchase and possess alcoholic beverages under the supervision of an officer of the Bureau of Liquor Control Enforcement once the requisite regulations have been promulgated. Age compliance checks are a critical tool for law enforcement to ensure that those who sell alcoholic beverages do not provide them to anyone under the age of 21. The regulations provide a deterrent to those who might be tempted to sell alcohol to underage drinkers and give communities reassurance that licensed establishments act responsibly.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

The Pennsylvania State Police believe that age compliance checks will reduce the sale of alcohol to underage drinkers.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

All citizens in Pennsylvania will benefit from implementation of a program that will allow the State Police to detect, deter, and prevent underage drinking.

### Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The Pennsylvania State Police do not believe anyone will be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

There are no groups, entities, or persons other than the Pennsylvania State Police Bureau of Liquor Control Enforcement who must comply with the proposed regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The Pennsylvania State Police solicited input from the Malt Beverage Distributors Association of Pennsylvania, the Pennsylvania Beer Wholesalers Association, the Pennsylvania Tavern Association, the Pennsylvania Chiefs of Police Association, the Pennsylvania District Attorneys Association, Pennsylvanians Against Underage Drinking, and the Pennsylvania Chapter of Students Against Drunk Driving. The State Police received input from the Pennsylvania Tavern Association and Pennsylvanians Against Underage Drinking.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The regulation does not place any new burdens upon the regulated community. The law has always required liquor licensees to ensure that minors do not obtain alcoholic beverages in their establishments. Some licensees may incur additional costs associated with more careful screening of youthful patrons, but these costs may be offset by corresponding reductions in insurance rates and/or legal costs from reduced liability awards. There is no objective method of calculating the interplay between these factors.

**Regulatory Analysis Form**

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

N/A (see No. 19)

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Implementation of the regulation should result in a decrease of underage consumption of alcoholic beverages with all of the corresponding benefits to society. The ripple effect of implementing these regulations impacts upon health care, law enforcement, education, and the economy. There is no objective method of calculating these savings.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

N/A	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>						
<b>State Government</b>						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

See No. 19

**Regulatory Analysis Form**

(20b) Provide the past three year expenditure history for programs affected by the regulation.

N/A

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

See No. 17 & 19. There are minimal costs associated with this program. The benefits of reducing underage consumption of alcoholic beverages are incalculable.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no viable nonregulatory alternatives to the proposed regulations. The regulations are mandated by statute – see No. 10.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no viable regulatory alternatives to the proposed regulations, which are mandated by statute.

**Regulatory Analysis Form**

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

N/A – There are no federal standards for age compliance checks.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Several states have similar programs. The proposed regulations will not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

Input has already been sought from the groups listed in No. 16. No public hearings or informational meetings have been scheduled, but information regarding the proposed regulations is available on the Pennsylvania State Police website and comments are welcome.

### Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

No; a standard administrative investigation report will be employed by the Compliance Officers.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

N/A

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Unknown. The Pennsylvania State Police Bureau of Liquor Control Enforcement will be prepared to implement the Age Compliance Program as soon as the regulations are approved.

(31) Provide the schedule for continual review of the regulation.

Absent additional legislation, the provisions of 18 Pa.C.S.A. § 6308(e), which authorize the age compliance check program, will expire December 31, 2007. In the meantime, the proposed regulations will be continuously reviewed for clarity, effectiveness, and whether they are serving the greater interests of citizens of this Commonwealth.



FACE SHEETS  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

#2372

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REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

By: Raymond Elliott  
(Deputy Attorney General)

NOV 03 2003

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania State Police  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 17-64

DATE OF ADOPTION \_\_\_\_\_

By: Col. Jeffrey B. Miller  
Colonel Jeffrey B. Miller

TITLE Commissioner  
EXECUTIVE OFFICER CHAIRMAN OR SECRETARY

Copy below is hereby approved as to form and legality Executive or Independent Agencies

By: Fancy C. ...  
9/18/03

DATE OF APPROVAL

Asst.  
Deputy General Counsel  
~~Chief Counsel - Independent Agency~~  
Strike inapplicable title

Check if applicable. No Attorney General approval or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

TITLE 37. LAW

PART I. STATE POLICE

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

# PROPOSED RULEMAKING

## STATE POLICE

[37 PA. CODE CH. 23]

### Administration of the Bureau of Liquor Control

#### Enforcement Age Compliance Check Program

As a requirement of Act 141 of 2002, P.L. 1144, No. 141, § 1 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages), these proposed regulations are necessary for the general administration of the age compliance program. The effective date of the act was February 1, 2003. As set forth, the proposed regulations prescribe the manner in which compliance checks are to be performed and require officers, employees, and interns of the Bureau of Liquor Control Enforcement to undergo approved training prior to participation in a compliance check.

#### *Effect*

The proposed regulations will affect the Pennsylvania State Police Bureau of Liquor Control Enforcement and establishments licensed to serve alcoholic beverages.

#### *Fiscal Impact*

The proposed regulations will impose minimal costs upon the Pennsylvania State Police in developing and implementing the requisite training and age compliance check program.

#### *Paperwork Requirements*

The proposed regulations will require the completion of additional forms, reports or other paperwork as prescribed and provided by the State Police.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the State Police submitted a copy of these proposed regulations on December 8, 2003, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Judiciary Committee and the Senate Law and Justice Committee. In addition to submitting the proposed regulations, the State Police has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of the material is also available to the public upon request.

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If IRRC has objections to any portion of the proposed regulations, it will notify the State Police within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the proposed regulations, by the State Police, the General Assembly and the Governor of objections raised.

*Sunset Date*

No sunset date has been assigned; however, every facet of these proposed regulations will be continuously reviewed for effectiveness, clarity and whether they are serving the greater interests of citizens of this Commonwealth.

*Public Comment*

Interested parties wishing to comment are invited to submit a written statement within 30 days of the publication of this notice in the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party and a concise statement with sufficient detail on the subject. Written statements may be directed to Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110.

*Contact Person*

The contact person is Syndi L. Guido, Policy Director, Pennsylvania State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. If you are a person with a disability and require an alternative format of this document (i.e. large print, audio tape, Braille), please contact Ms. Guido so that she may make the necessary arrangements.

COLONEL JEFFREY B. MILLER,  
Commissioner

9/17/2003

Annex A

TITLE 37. LAW

PART I. STATE POLICE

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

**GENERAL PROVISIONS**

Sec.  
23.1            Definitions

**COMPLIANCE CHECKS**

Sec.  
23.21           Required training

23.22           Age compliance checks

**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.

Compliance – Refusing sale or service of liquor or malt or brewed beverages to the underage buyer.

Bureau officer – A Pennsylvania State Police Officer or Liquor Enforcement Officer who is assigned to an age compliance check.

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Enforcement bureau – The Bureau of Liquor Control Enforcement of the Pennsylvania State Police.

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

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 one-half of one percent 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 one-half of one percent or more of alcohol by volume, by whatever name such 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 the ages of 18 and 20 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 must complete training approved by the Enforcement Bureau.

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(b) Underage buyers. Before participating in an age compliance check, an underage buyer must complete a training course prescribed by the Enforcement Bureau, which shall include instruction in at least the following areas of study:

(1) Applicable provisions of The Liquor Code and Crimes Code.

(2) Safety protocols.

(3) Undercover investigations.

(4) Testifying in court.

### **§ 23.22 Age compliance checks.**

(a) The age compliance check shall be conducted with no less than one bureau officer and one 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) While inside the licensed establishment, the bureau officer will endeavor to maintain visual contact with the underage buyer.

(f) 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.

(g) 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.

(h) Underage buyers shall not consume liquor or malt or brewed beverages.

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(i) Upon purchase of liquor or malt or brewed beverages the underage buyer shall deliver the liquor or malt or brewed beverages to the bureau officer as soon as possible, consistent with safety protocols.

(j) A bureau officer shall be responsible for insuring notification is made of the results of the age compliance check to the licensed premises.

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

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

October 28, 2003



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA STATE POLICE  
1800 ELMERTON AVENUE  
HARRISBURG, PENNSYLVANIA 17110

Syndi L. Guido  
Director  
Policy Office

E-Mail: [sguido@state.pa.us](mailto:sguido@state.pa.us)  
Telephone: (717) 772-0905  
FAX: (717) 705-1750

December 8, 2003

The Honorable Robert E. Nyce  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14th Floor  
Harrisburg, Pennsylvania 17101

Re: Proposed Rulemaking, Identification Number 17-64  
Title 37. Law, Part I. State Police  
Chapter 23. Administration of the Bureau of Liquor Control  
Enforcement Age Compliance Check Program

Dear Mr. Nyce:

The Pennsylvania State Police proposes amending Title 37, Part I of the Pennsylvania Code to add Chapter 23, Administration of the Bureau of Liquor Control Enforcement Age Compliance Check Program. Pursuant to the Regulatory Review Act, I am providing you with the enclosed copy of the proposed rulemaking. Should the Commission require any assistance with its review of the proposed regulations, please let me know.

Sincerely,

  
Syndi L. Guido  
Policy Director

Enclosure

cc: Colonel Jeffrey B. Miller  
Commissioner

Major Leonard McDonald, Director  
Bureau of Liquor Control Enforcement

Barbara Christie  
Chief Counsel



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: 17-66  
 SUBJECT: Designation of Emergency Vehicles  
 AGENCY: PA STATE POLICE

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - a. With Revisions
  - b. Without Revisions

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
12/8/03	Rose Harrison	HOUSE COMMITTEE ON JUDICIARY
12/8/03	Juan Thomas	
12/8/03	Julia B.	SENATE COMMITTEE ON LAW AND JUSTICE
12/8/03	M. Wagner	
12/8/03	J. Page	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
1/8/03	C. Le. Brown	LEGISLATIVE REFERENCE BUREAU (for Proposed only)