

PROPOSED AMENDMENT

11 CSR 70-2.280 [Guidelines] Standards for Using Minors in Intoxicating Liquor Investigations. The Division of Alcohol and Tobacco Control is amending the title and purpose of this regulation. The division is also amending section (1), adding new section (2), and deleting previous section (2).

PURPOSE: This rule establishes [guidelines] standards for the use of minors in intoxicating liquor [or nonintoxicating beer] investigations by a state, local, municipal, or other local law enforcement authority. This amendment lays out the standards for the use of minors in on-site as well as off-site investigations.

(1) **On-site Investigations.** The following are *[guidelines] standards* for the use of minors in intoxicating liquor investigations by a state, county, municipal, or other local law enforcement authority **where intoxicating liquor is purchased by the minor on or about the licensed premises:**

(A) The minor **must** be eighteen or nineteen years of age;

(B) The minor **must** have a youthful appearance *[and the minor, if a male,]. The minor must not have facial hair or a receding hairline [; if a female, not], or wear excessive makeup or excessive jewelry [. The minor, male or female, not], or wear headgear that will obstruct a clear view of the face or hairline. If the minor is wearing headgear or facial coverings required by law, executive order, or any official mandate from the city, county, state, or federal government, or if the business requests the minor to wear certain headgear or facial coverings, the minor shall be permitted to wear such item(s), but must temporarily remove said item(s) upon request by the seller of the intoxicating liquor so as to provide a clear view of the face and hairline;*

(C) The minor **must** carry his or her own **valid government-issued** identification showing the minor's correct date of birth and, upon request, produce such identification to the seller of the intoxicating liquor at the licensed establishment; and the state, county, municipal, or other local law enforcement agency **conducting the investigation [shall] must** search the minor prior to the *[operation] investigation* to ensure that the minor is not in possession of any other valid or fictitious identification;

(D) The minor *[shall] must* answer truthfully any questions about his or her age and **must** not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a sale of intoxicating liquor;

(E) The state, county, municipal, or other local law enforcement agency *[are to] must* make a copy of the minor's valid identification showing the minor's correct date of birth;

(F) *[Any attempt by such minor to purchase intoxicating liquor be videotaped or audiotaped with equipment sufficient] The state, county, municipal, or other local law enforcement agency conducting such investigations must videotape or audiotape any attempt by the minor to*

purchase intoxicating liquor in a good faith effort to record all statements made by the minor and the seller *[of the intoxicating liquor product]*;

(G) *[The minor is not to be employed by the]* **No** state, county, municipal, or other local law enforcement agency **may employ minors** on an incentive or quota basis;

(H) If a violation occurs, the state, county, municipal, or other local law enforcement agency *[makes]* **must make** reasonable efforts to confront the seller in a timely manner, and within forty-eight (48) hours, contact or take all reasonable steps to contact the owner *[or]*, manager, **or managing officer** of the establishment;

(I) The state, county, municipal, or other local law enforcement agency *[maintain]* **must maintain** records of each visit to an establishment where a minor is used by the *[state, county, municipal, or other local law enforcement]* agency **during an intoxicating liquor investigation** for a period of at least one (1) year following the *[incident]* **investigation** regardless of whether a violation occurs at each *[visit]* **investigation**, and such records *[shall]* **must**, at a minimum, include the following information:

1. **An Information and Consent document, completed by the minor in advance of the investigation, on the Division form or a similar form approved by the Division;**
2. **An Alcohol and Compliance Buy Checklist, signed by the minor and the peace officer responsible for reviewing the checklist with said minor, on the Division form or a similar form approved by the Division;**
3. A photograph of the minor taken immediately prior to the *[operation]* **investigation;**
- [2]*4. A copy of the minor's valid identification, showing the minor's correct date of birth;
- [3. An Information and Consent document, completed by the minor in advance of the operation;*
4. *The name of each establishment visited by the minor, and the date and time of each visit; and]*
5. The audiotape or videotape specified in subsection (1)(F) above; and
6. A written Minor Report **on the Division form or a similar form approved by the Division.**

(J) The state, county, municipal, or other local law enforcement agency *[provides]* **must provide pre-recorded** currency to the minor, to be used in the *[operation]* **investigation**. If a violation occurs, said agency **should attempt to recover the pre-recorded funds tendered to the seller, or an amount equal thereto, and return any change tendered to the minor, and** should further secure and inventory any intoxicating liquor product(s) purchased; and

(K) The state, county, municipal, or other local law enforcement agency, in advance of the *[operation]* **investigation**, **must** train the minor who will be used in the *[operation]* **investigation**. Training, at a minimum, *[includes]* **must include:**

1. Instruction to enter the designated establishment and to proceed immediately to attempt to purchase **or be supplied with an** intoxicating liquor product *[(s)]*;
2. Instruction to provide the minor's valid identification upon a request for identification by the seller;

3. Instruction to answer truthfully all questions about age;
4. Instruction not to lie to the seller to induce a sale of intoxicating liquor products;
5. Instruction on the use of **pre-recorded** currency; and
6. Instruction on the other matters set out in this regulation.

(2) *[The supervisor of Alcohol and Tobacco Control shall not participate with any state, county, municipal, or other local law enforcement agency, nor discipline any licensed establishment when any state, county, municipal, or other law enforcement agency chooses not to follow the supervisor's permissive standards.]* **Off-site Investigations. The following are standards for the use of minors in intoxicating liquor investigations by a state, county, municipal, or other local law enforcement authority where intoxicating liquor is delivered or shipped to the minor at a location other than the licensed establishment:**

(A) For the purposes of this section, licensees are at all times responsible for the actions and conduct of any employees, agents, or third parties delivering or shipping intoxicating liquor on the licensee's behalf pursuant to an order by internet, telephone, mail, or any method of ordering other than in person on the licensed premises;

(B) The minor must be eighteen or nineteen years of age;

(C) The minor must have a youthful appearance. The minor must not have facial hair or a receding hairline, or wear excessive makeup or excessive jewelry, or wear headgear that will obstruct a clear view of the face or hairline. If the minor is wearing headgear or facial coverings required by law, executive order, or any official mandate from the city, county, state, or federal government, the minor shall be permitted to wear such item(s), but must temporarily remove said item(s) upon request by the person delivering or shipping the intoxicating liquor so as to provide a clear view of the face and hairline;

(D) The minor must carry his or her own valid government-issued identification showing the minor's correct date of birth and, upon request, produce such identification to the person delivering or shipping the intoxicating liquor; and the state, county, municipal, or other local law enforcement agency conducting the investigation must search the minor prior to the investigation to ensure that the minor is not in possession of any other valid or fictitious identification;

(E) The minor must answer truthfully any questions about his or her age and must not remain silent when asked questions regarding his or her age, nor misrepresent anything in order to induce a delivery or shipment of intoxicating liquor;

(F) The state, county, municipal, or other local law enforcement agency must make a copy of the minor's valid identification showing the minor's correct date of birth;

(G) The state, county, municipal, or other local law enforcement agency conducting such investigations must videotape or audiotape the delivery or shipment of the intoxicating liquor in a good faith effort to record all statements made by the minor and the person delivering or shipping the intoxicating liquor;

(H) No state, county, municipal, or other local law enforcement agency may employ minors on an incentive or quota basis;

(I) If a violation occurs, the state, county, municipal, or other local law enforcement agency must make reasonable efforts to confront the person who delivered or shipped the intoxicating liquor product(s) in a timely manner, and within forty-eight (48) hours, contact

or take all reasonable steps to contact the owner, manager, or managing officer of the establishment that sold the intoxicating liquor;

(J) The state, county, municipal, or other local law enforcement agency must maintain records of each delivery or shipment where a minor is used by the agency during an intoxicating liquor investigation for a period of at least one (1) year following the investigation, regardless of whether a violation occurs at each investigation, and such records must, at a minimum, include the following information:

1. An Information and Consent document, completed by the minor in advance of the investigation, on the Division form or a similar form approved by the Division;
2. An Alcohol and Compliance Buy Checklist, signed by the minor and the peace officer responsible for reviewing the checklist with said minor, on the Division form or a similar form approved by the Division;
3. A photograph of the minor taken immediately prior to the investigation;
4. A copy of the minor's valid identification, showing the minor's correct date of birth;
5. The audiotape or videotape specified in subsection (2)(H) above; and
6. A written Minor Report on the Division form or a similar form approved by the Division.

(K) The state, county, municipal, or other local law enforcement agency must place the order using the minor's information. Regardless of whether a violation occurs, said agency should attempt to recover any funds tendered to the seller and the person delivering or shipping the intoxicating liquor, or an amount equal thereto, and should further secure and inventory any intoxicating liquor delivered or shipped; and

(L) The state, county, municipal, or other local law enforcement agency, in advance of the investigation, must train the minor who will be used in the investigation. Training, at a minimum, must include:

1. Instruction to respond to the designated delivery or shipment spot and proceed immediately to attempt to take possession of or be supplied with the intoxicating liquor product(s);
2. Instruction to provide the minor's valid identification upon a request for identification by the person delivering or shipping the intoxicating liquor;
3. Instruction to answer truthfully all questions about age;
4. Instruction not to lie to the person delivering or shipping the intoxicating liquor to induce a delivery or shipment of intoxicating liquor products;
5. Instructions on the use of pre-recorded currency; and
6. Instruction on the other matters set out in this regulation.

*AUTHORITY: section 311.722, RSMo 2016. Original rule filed Jan. 13, 2006, effective Aug. 30, 2006. Amended: Filed Oct. 10, 2018, effective May 30, 2019. Amended: Filed May 27, 2022***