

**Title II – DEPARTMENT OF PUBLIC SAFETY  
Division 70-Division of Alcohol and Tobacco Control  
Chapter 2-Rules and Regulations**

**PROPOSED AMENDMENT**

**11 CSR 70-2.280 Guidelines for Using Minors in Intoxicating Liquor [or Nonintoxicating Beer] Investigations.** The division is amending sections (1) and (2) and removing all forms.

*Purpose – To revise this section, which establishes guidelines for the use of minors in intoxicating liquor investigations by a state, county, municipal or other local law enforcement authority, to reflect the elimination of Chapter 312, RSMo, regulating nonintoxicating beer. In addition, the time requirements for contacting the clerk who sold alcohol to a minor and the manager of the licensed premises are being removed. The requirement to retrieve the currency used in a compliance check is also being removed. These requirements are being removed as they provide no enhancements to the successful prosecution of the violations.*

(1) The following *[shall constitute]* **are** guidelines for the use of minors in intoxicating liquor *[or nonintoxicating beer]* investigations by a state, county, municipal or other local law enforcement authority:

(A) The minor *[shall]* be eighteen (18) or nineteen (19) years of age;

(B) The minor *[shall]* have a youthful appearance and the minor, if a male, *[shall]* not have facial hair or a receding hairline; if a female, *[shall]* not wear excessive makeup or excessive jewelry. The minor, male or female, *[shall]* not wear headgear that will obstruct a clear view of the face or hairline;

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

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

(E) The state, county, municipal or other local law enforcement agency *[shall]* **are to** make a *[photo]*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 [or nonintoxicating beer] products [shall] be videotaped or audiotaped with equipment sufficient to record all statements made by the minor and the seller of the intoxicating liquor [or nonintoxicating beer] product;

(G) The minor [shall] is not [be] employed by the state, county, municipal or other local law enforcement agency on an incentive or quota basis;

(H) If a violation occurs, the state, county, municipal or other local law enforcement agency [shall, within two (2) hours,] makes reasonable efforts to confront the seller **in a timely manner, and** [, if practical, and further,] within forty-eight (48) hours, contact or take all reasonable steps to contact the owner or manager of the establishment;

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

1. A photograph of the minor taken immediately prior to the operation;
2. A [photo]copy of the minor's valid identification, showing the minor's correct date of birth;
3. An Information and Consent document, [included herein,] completed by the minor in advance of the operation. [in the following form:

**Minor Information and Consent**

State of Missouri )

COUNTY of \_\_\_\_\_)

Before me, the undersigned authority, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

personally appeared \_\_\_\_\_, who by me is known and

who after being by me first duly sworn did depose and state:

1. I am \_\_\_\_\_, a minor, and was born on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

My address is \_\_\_\_\_.

My driver's license number is \_\_\_\_\_ in the State of \_\_\_\_\_.

My Social Security number is \_\_\_\_\_.

My parents'/legal guardians' names are \_\_\_\_\_.

My home telephone number is \_\_\_\_\_.

2. I do hereby agree to assist the \_\_\_\_\_  
in the investigation of offenses involving the unlawful sale of intoxicating liquor [or  
nonintoxicating beer] products in this state. I understand that I will be entering locations,  
in which intoxicating liquor [or nonintoxicating beer] products are sold and that I will  
attempt to purchase intoxicating liquor [or nonintoxicating beer] products, but only under  
the direction and supervision of agents of the \_\_\_\_\_.

3. [ I understand that I may wear an audio recording or transmitting device, which will  
record or transmit oral conversations, while I am attempting the purchase of intoxicating  
liquor or nonintoxicating beer products, and I consent to wearing such. I also consent to  
the video recording of my activities during these attempts.]

4.] I understand and agree that I may be required to appear and testify in court and/or in  
an administrative proceeding concerning the purchase of intoxicating liquor [or  
nonintoxicating beer] products or other criminal or administrative violations and that said  
appearance and testimony may be required in Jefferson City or another location in this  
state.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public]

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. [in the following form:

**Minor Report**

Date of Purchase: \_\_\_\_\_ Time of Purchase: \_\_\_\_\_ a.m./p.m.

Name of Establishment: \_\_\_\_\_

\_\_\_\_\_  
Address: (street and city) \_\_\_\_\_

(County) \_\_\_\_\_

Approximate Age of Seller: \_\_\_\_\_ Sex of Seller: \_\_\_\_\_

Hair Color of Seller: \_\_\_\_\_

Clothing of Seller: \_\_\_\_\_

Seller's Actions (did or did not ask for I.D.):

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Description of Product and Brand Purchased:

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Quantity: \_\_\_\_\_ Price: \_\_\_\_\_

Conversation with Seller:

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Other Details:

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Minor's Signature]

(J) The state, county, municipal or other local law enforcement agency *[must]* provides *[pre-recorded]* currency to the minor, to be used in the operation[, and, if a violation occurs, must make all reasonable efforts to retrieve the pre-recorded currency]. If a violation occurs, said agency *[shall]* **should** further secure and inventory any intoxicating liquor *[or nonintoxicating beer]* products purchased; and

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

i) instruction to enter the designated establishment and to proceed immediately to attempt to purchase intoxicating liquor *[or nonintoxicating beer]* products;

ii) instruction to provide the minor's valid identification upon a request for identification by the seller;

iii) instruction to answer truthfully all questions about age;

iv) instruction not to lie to the seller to induce a sale of intoxicating liquor *[or nonintoxicating beer]* products;

v) instruction on the use of *[pre-recorded]* currency; and

vi) 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.

AUTHORITY: section 311.722, RSMo Supp. [2005] **2018**. Original rule filed Jan. 13, 2006, effective Aug. 30, 2006. **Amended: Filed October 10, 2018.**

\*Original authority: 311.722, RSMo 2005.

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Alcohol and Tobacco Control at 1738 East Elm Street, Lower Level in Jefferson City, Mo 65101 or by facsimile at 573-526-4540, or via email at Karen.Dorton@dps.mo.gov. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*