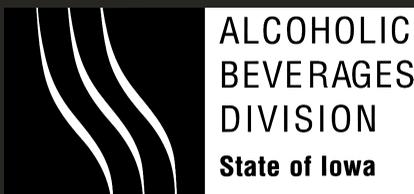


IOWA STATE
PATROL
FY16



TOBACCO, ALTERNATIVE
NICOTINE & VAPOR PRODUCT
ENFORCEMENT
HANDBOOK



STEPHEN LARSON, ADMINISTRATOR

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Thank you for taking the I-PLEDGE and partnering with the Iowa Alcoholic Beverages Division (ABD) to help keep tobacco, alternative nicotine and vapor products out of the hands of Iowa’s youth. This handbook is a valuable resource to assist in the successful completion of tobacco, alternative nicotine and vapor product enforcement initiatives. Relevant forms, sample letters and suggested procedures are contained in this publication. Feel free to make copies of these documents to complete necessary paperwork.

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I. Press Release

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IOWA STATE PATROL TO PARTNER WITH IOWA ALCOHOLIC BEVERAGES DIVISION FOR TOBACCO, ALTERNATIVE NICOTINE AND VAPOR PRODUCT EDUCATION AND ENFORCEMENT

[COMMUNITY], Iowa ([MONTH ##], 20##) – The Iowa State Patrol [District #] has taken a pledge to keep tobacco, alternative nicotine and vapor products out of the hands of [COMMUNITY] youth.

Known as I-pledge, the program is a partnership with the Iowa Alcoholic Beverages Division (ABD) to educate local retailers and to enforce Iowa's tobacco, alternative nicotine and vapor product laws. Since the program's inception in 2000, the statewide tobacco compliance rate has grown to 91%. By participating in the program, the Iowa State Patrol has committed to do its part to increase the compliance rate even more this year.

I-pledge places emphasis on retailer training. Clerks who successfully complete an online training course and then pass an exam will become I-pledge certified. This allows a retail establishment to use an affirmative defense against a civil penalty if the certified clerk makes an illegal sale.

"I-pledge's retailer training is a great way for clerks to prepare themselves to refuse illegal tobacco, alternative nicotine and vapor product sales," [DISTRICT LIEUTENANT/SERGEANT] said. "The training also assists retailers to ensure they maintain a compliant and responsible establishment."

Troopers will also be conducting compliance checks on local establishments as part of the I-pledge program. Underage customers, under the supervision of law enforcement officials, will enter establishments and attempt to buy tobacco, alternative nicotine and vapor products. Clerks who make the illegal sale will be cited on the spot.

Criminal penalties for selling tobacco, alternative nicotine and vapor products to a minor include a \$100 fine for a first offense, a \$250 fine for a second offense and a \$500 fine for third and subsequent offenses. However, handing out citations is not the intent of the I-pledge program.

"By partnering with the Iowa Alcoholic Beverages Division, we hope to educate clerks and maintain a compliant retail environment in our community," [DISTRICT LIEUTENANT/SERGEANT] said. "Moreover, we pledge to help keep tobacco, alternative nicotine and vapor products out of the hands of Iowa's youth."

To take the I-pledge training or search certification records go to www.iowaABD.com.

##

II. Trooper Checklist

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- 1. **Issue a press release** indicating your district is partnering with the Iowa Alcoholic Beverages Division to conduct compliance checks. A suggested press release is included on page 2 of this handbook and can be downloaded at www.iowaABD.com.
 - ▶ Please do not provide retailers with advance notification of compliance checks.

- 2. **Complete and submit compliance checks** on or before **April 15, 2016**.
 - ▶ Try to complete compliance checks on **seasonal businesses** before the end of the 2015 business season but not before October 1st.
 - ▶ Use only Fiscal Year 2016 Tobacco, Alternative Nicotine and Vapor Product Enforcement Program forms included in this handbook, or download current forms at www.iowaABD.com.

- 3. **Immediately issue a criminal citation** to non-compliant clerks. Your district should notify the city or county attorney within 72 hours for criminal proceedings. Your district should also notify the business owner or manager of the tobacco/alternative nicotine/vapor product violation within seven (7) business days.

- 4. **Complete and submit a second compliance check on violators only** by **May 30, 2016**.

NOTE: Compliance checks must be conducted at establishments during regular business hours.

III. Compliance Check Results - Unable to Complete

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Not all compliance checks may be classified as compliant or non-compliant. Below are a few circumstances law enforcement should be aware of to ensure accurate results are reported to ABD:

- ▶ **Establishment tells youth that the business no longer sells tobacco, alternative nicotine or vapor products:** The trooper should contact the city clerk/county auditor to determine if the business no longer holds a valid permit or if the business simply told the youth that the business no longer sells tobacco, alternative nicotine or vapor products. If the business does have a valid permit, enter the compliance check as “compliant.”
- ▶ **Establishment no longer holds a valid permit:** Submit the compliance check as “no longer holds a valid tobacco, alternative nicotine, or vapor product permit.” Make sure a compliance check was attempted if this selection is chosen. If you are aware an establishment on ABD’s list no longer holds a valid permit prior to attempting to conduct a compliance check at the establishment, contact your ABD investigator.
- ▶ **Establishment is out of business:** Submit the compliance check as “out of business.” Make sure a compliance check was attempted if this selection is chosen. If you are aware a business is no longer in operation prior to attempting to conduct a compliance check at the establishment, contact your ABD Investigator.
- ▶ **Youth is denied entry:** Submit the compliance check as “compliant.” These establishments are typically “members only” or the youth is stopped at the door due to age.
- ▶ **Establishment is unsafe or inappropriate:** Establishments that are unsafe or inappropriate for a minor to enter can be considered an “unsatisfactory condition.” However, to formally designate the establishment as an “unsatisfactory condition,” the trooper-in-charge must contact their ABD investigator prior to conducting the compliance check for confirmation. The trooper-in-charge must conduct a “walk-through” of the premises to ensure the establishment is in compliance with Iowa’s tobacco, alternative nicotine and vapor product laws.

A full list of unable to complete reasons is provided below.

Reason

Out of business
Valid permit but no sale
Inaccessible by youth (explain in comments)
Private club (explain in comments)
Temporary business closure
Unable to locate business
Wholesale/Carton sale only
Broken vending machine
Duplicate
No longer holds valid permit

Reason

Unsatisfactory Condition (explain in comments)
In operation but closed at time of visit
Unsafe to access (explain in comments)
Presence of law enforcement officials
Youth inspector knows salesperson
Moved to new location but not inspected
Drive-thru only but youth inspector has no DL
Tobacco/alternative nicotine/vapor product out of stock
Run out of time
Other non-completion (explain in comments)

IV. Website, User ID and Password FY 2016



The I-pledge Tobacco, Alternative Nicotine and Vapor Product Enforcement Program website allows law enforcement agencies to electronically file compliance check reports and submit results to ABD for payment online. Please follow the steps below to enter compliance check reports online.

1. Access the site by visiting www.lowaABD.com;
2. Click on the “**I-pledge Training & Enforcement Log In**” link located under the **TOBACCO** banner at the top of the home page;
3. Choose the “**Tobacco, Alternative Nicotine and Vapor Product Enforcement Program.**” and enter a “**User ID**” and “**Password.**”

USER ID:

Your User ID is the word “Post” plus the number of your district. As an example, if you are entering results for the Iowa State Patrol, District 1, your User ID is Post 1 (include space).

PASSWORD:

You will use the same password that you used during FY2015.

- Your password is case sensitive, meaning capital and small letters must be in appropriate places.
- Your password cannot contain symbols like &, *, or #, etc.
- **DO NOT USE YOUR EMAIL ADDRESS AS A PASSWORD.**

If you experience difficulty accessing the I-pledge Tobacco, Alternative Nicotine and Vapor Product Enforcement Program website, make sure you are using Internet Explorer as your web browser. If you are using Internet Explorer and continue to experience difficulty, contact ABD Investigator Bill Missman at 515-314-3654 or via email at Missman@lowaABD.com. You may also contact Jessica Ekman at 515-281-7434 or Ekman@lowaABD.com.

V. Submitting Compliance Check Results

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A district has the discretionary option of entering the results of the compliance checks online. Reimbursement for the data entry will be paid at the going salary rate for the person entering the data. Please contact your ABD Investigator if your district would prefer to have ABD enter the compliance check results.

Follow these easy steps to submit compliance reports online:

Login:

Login using your user ID and password. Please note both the user ID and password are case sensitive; **meaning capital and lowercase letters must be in appropriate places.**

Disclaimer:

A successful login will prompt a disclaimer screen. The disclaimer explains the terms of using the I- PLEDGE Tobacco, Alternative Nicotine and Vapor Product Enforcement Program website. Agreeing to these terms allows you to enter the website and submit compliance reports.

Locate Retailer:

A screen with a list of retailers will appear. You may sort each column by clicking on the column heading. After locating the appropriate retailer, click on that retailer’s name and a screen with the retailer’s information will appear.

Enter Compliance Check Results:

After arriving at the retailer information screen, scroll to the bottom and click on “**Report Compliance.**” A screen will appear that will allow you to enter compliance check results. Please complete all applicable fields accurately. If you do not see the “Report Compliance” button, make sure you are using Internet Explorer as your web browser.

Submit Compliance Check Results:

After entering the results of the compliance check, click on “**Submit**” located at the bottom of the screen. If an explanation is required, please ensure a complete and accurate explanation is provided in the comments section.

Letters to Retailers:

After receiving the compliance report, ABD will send a notification of compliance to retailers who do not sell tobacco, alternative nicotine or vapor products to underage youth and a notification of non-compliance to those who do sell. The notifications will be sent to retailers monthly.

Questions or Problems?

If you have problems submitting a report or have questions regarding the website, contact ABD Investigator Bill Missman at 515-314-3654 or Missman@IowaABD.com. You may also contact Jessica Ekman at 515-281-7434 or Ekman@IowaABD.com.

REIMBURSEMENT BREAKDOWN	
ITEM	COST
Patrol Salaries	
Officer Buyback	Going Rate
Confidential Informant Overhead (DPS-DNE invoices ABD)	
Wages	\$10.00/hour (3 hours min.)
Meals	\$15.00
Tobacco Products	Going Rate
Mileage	\$10.00 flat fee (if applicable)

VI. Compliance Check Procedures

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ABD has created the following suggested procedures for routine and fair monitoring of Iowa retail establishments licensed to sell tobacco, alternative nicotine and vapor products.

Preparing for Compliance Checks

The district should coordinate the participation of a minor to assist with the controlled-buy operation (compliance check).

- ▶ **Minors shall be 16 or 17 years of age. Minors under the age of 16 shall not be used to conduct tobacco, alternative nicotine and vapor product compliance checks.**
- ▶ All minors should be of good character.
- ▶ Minors should have the appearance, demeanor, mannerisms and appropriate dress for their age group. Youth should refrain from wearing high school or college logos while conducting compliance checks.
- ▶ All minors shall have a parent or guardian complete a Parent/Guardian Consent Form prior to the scheduled compliance check date. Provide a copy of the consent form to the parent/guardian.
- ▶ The citing trooper shall be available for testimony at hearings and district court proceedings at the request of the local/state prosecutor and shall advise local/state prosecutors and their ABD investigator as to the disposition of criminal citations.

A Briefing Shall be Held Prior to Conducting Checks

- ▶ **Appearance:** The trooper-in-charge should approve the minor's appearance and a photo should be taken of the minor before each day of compliance checks. The minor's appearance should not be changed after that point.
- ▶ **Official Identification:** The trooper should verify the minor has proper, official identification showing date of birth. This shall be the only identification carried or presented throughout the course of the compliance check. The official identification should be an Iowa driver's license. Make a photocopy of the minor's ID.
- ▶ **Possessions:** The minor should only have buy money provided by the district in his/her possession; no other money should be on his/her person. Check the minor and his/her possessions to ensure there are no tobacco, alternative nicotine or vapor products in his/her possession prior to the check.
- ▶ **Instructions:** The minor should be instructed:
 - » As to what product he/she should attempt to purchase;
 - » Go directly to the targeted merchandise to attempt to make the purchase;
 - » Speak only as necessary - at no time should the minor try to persuade the licensee/clerk to complete the sale;
 - » If asked about age, the minor should truthfully respond with how old he/she is;
 - » If asked for ID, the minor should present his/her ID to the licensee/clerk;
 - » If the licensee/clerk takes a minor's ID, tell the minor not to argue but to leave the store and the trooper will obtain the minor's ID and congratulate the licensee for compliance;
 - » If a receipt of the purchase is offered, accept and maintain for evidence;
- ▶ **Termination:** The trooper shall have the authority to terminate the operation at any time for safety reasons.

NOTE: The success of the operation and the minor's continued participation in tobacco, alternative nicotine and vapor product compliance checks is not dependent upon making successful purchases.



Law Enforcement Positioning

- ▶ **Tobacco, Alternative Nicotine and Vapor Product Retailers:** If possible, the trooper should be stationed either inside the store or at a point from which the trooper can observe the sale. The trooper should not appear to be with the minor.
- ▶ **Bars/Restaurants:** The minor should enter the establishment first and request a tobacco, alternative nicotine or vapor product. If possible, the trooper should enter the bar/restaurant after the minor and observe the purchase attempt from a discreet location. The trooper should not appear to be accompanying the minor. Most bars/restaurants typically sell traditional tobacco products versus alternative nicotine and vapor products. An establishment where an employee checks the minor's ID at the door and denies the minor access to the premises shall be considered to be compliant.

Unsatisfactory Condition

Establishments that are unsafe or inappropriate for a minor to enter can be considered an "unsatisfactory condition." A minor should never be sent into an adult entertainment facility or bar where the trooper feels it is unsafe or inappropriate for the minor. The majority of bars in Iowa do not fall under this condition.

However, to formally designate the establishment as an "unsatisfactory condition," the trooper-in-charge must contact their ABD investigator prior to conducting the compliance check for confirmation. Once the establishment has been formally designated as an "unsatisfactory condition," the trooper-in-charge must conduct a "walk-through" of the premises to ensure the establishment is in compliance with Iowa's tobacco, alternative nicotine and vapor product laws. In the event that ABD feels the check can safely be conducted, the district will be asked to complete the check.

Vending Machines

A vending machine which is accessible to a youth under age 18 is in violation of Iowa Code section 453A.36(6). If an establishment has a vending machine, the minor should be instructed to approach the retailer and specifically ask for change for the vending machine. If change is given, the minor should purchase tobacco, alternative nicotine or vapor products from the machine and exit. Asking specifically for change for the vending machine helps to identify who to cite during a non-compliant vending machine sale.

Audio/Video Recording

Audio and video equipment may be utilized during compliance checks in lieu of trooper observation.

Criminal Citation

Immediately issue a criminal citation to an employee/clerk who sells a tobacco, alternative nicotine or vapor product to a minor, a violation of Iowa Code section 453A.2(1). A citation must be issued before the district may receive payment. Selling a tobacco, alternative nicotine or vapor product to a minor is a scheduled violation, resulting in scheduled fines as follows:

- ▶ 1st Offense: \$100.00 plus surcharge and court costs
- ▶ 2nd Offense: \$250.00 plus surcharge and court costs
- ▶ 3rd Offense: \$500.00 plus surcharge and court costs



VII. Youth Consent Form

FY 2016

Youth Participant's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone Number: _____ Date of Birth: _____

Social Security Number: _____ Gender: _____

Youth's Driver License or Identification Card No.: _____

- ▶ I understand my participation is voluntary and I will be under the supervision of a law enforcement officer at all times.
- ▶ I understand it is essential to maintain the confidential nature of the program, therefore ensuring the effectiveness, accuracy and validity of the outcome.
- ▶ I understand my participation in the project can be terminated at any time by myself, a parent or the law enforcement agency.
- ▶ I understand compliance checks may result in the purchase of tobacco, alternative nicotine and vapor products. I understand tobacco, alternative nicotine and vapor products will be treated as evidence and maintained by the law enforcement agency.
- ▶ I understand that I may be required to enter bars.
- ▶ I understand retailers in violation of minimum-age tobacco, alternative nicotine and vapor product laws may receive citations that result in monetary fines, suspension or revocation of their license and that I may be asked to participate in the adjudication process.
- ▶ I understand the success of the project is not dependent upon making successful, illegal purchases.

My signature on this document verifies my willingness to participate in the project and to follow the rules and procedures outlined in the training.

Youth Signature _____ **Date** _____

I have read the Program Procedures and Youth Participant Guidelines and give my permission for my child to participate in this project.

Parent/Guardian Signature _____ **Date** _____

Program Coordinator _____ **Date** _____



VIII. Compliance Check Form FY 2016

Retailer: _____ Address: _____

City: _____ State: _____ ZIP: _____

<p>RESULTS (check one):</p> <p><input type="checkbox"/> Compliant</p> <p><input type="checkbox"/> Non-Compliant</p> <p><input type="checkbox"/> Unable to Complete (Not Applicable)</p> <p>Date Checked: _____</p> <p>Time Checked: _____</p> <p>Clerk Information: <input type="checkbox"/> Male <input type="checkbox"/> Female</p> <p>(NAME ONLY REQUIRED IF NON-COMPLIANT):</p> <p>First Name: _____ Middle Initial: _____</p> <p>Last Name: _____ Case #: _____</p> <p><input type="checkbox"/> I have issued a criminal citation to the clerk listed above for selling tobacco, alternative nicotine or vapor products to a person under age eighteen. <i>Iowa Code § 453A.2(1).</i></p>	<p><i>If Unable to Complete the Compliance Check</i> (check one)</p> <p><input type="checkbox"/> Establishment has a VALID PERMIT but Does Not Sell Tobacco, Alternative Nicotine or Vapor Products. - Permit Status Verified by City Clerk or County Auditor</p> <p><input type="checkbox"/> Establishment No Longer Holds a Valid Tobacco, Alternative Nicotine or Vapor Product Permit</p> <p><input type="checkbox"/> Establishment is Out of Business</p> <p><input type="checkbox"/> Establishment is designated as an "Unsatisfactory Condition" - "Unsatisfactory Condition" verified by ABD Investigator - Trooper Conducted a Walk-Through of the Premises (Explanation Required in Comments Section Below)</p> <p>▶ If none of the above reasons apply, write reason and explanation on the back of the form—see page 4 for reason list.</p>
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(NOTE: If the compliance check result is Non-Compliant, a citation must be issued before your district may receive payment.)

TROOPER INFORMATION (TROOPER THAT CONDUCTED COMPLIANCE CHECK):

First Name: _____ Middle Initial: _____ Last Name: _____

Badge: _____ District: _____

CONFIDENTIAL INFORMANT (CI):

CI Age: 16 17 CI Gender: Male Female CI Number: (Last 4 digits of CI's ID)

CI Ethnicity: White Asian African American Native American Hispanic Other

RESULTS OF ATTEMPTED PURCHASE:

Attempted Purchase Item: Cigarettes Smokeless Tobacco Other Tobacco Product

Alternative Nicotine Vapor Product

Age Requested? YES NO

ID Requested? YES NO

COMMENTS:

Trooper Signature _____

Amount Due _____

IX. ALTERNATIVE NICOTINE & VAPOR PRODUCTS

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What is an Alternative Nicotine and Vapor Product?

Vapor Product:

Any non-combustible product which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug and Cosmetic Act.

Alternative Nicotine Product:

A product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. Alternative nicotine products do not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under chapter V of the federal Food, Drug and Cosmetic Act.

Based on advice from the Iowa Attorney General's Office, the last line of the above definition *eliminates cessation products from being included under the law*. Therefore, the purchase of cessation products should not be attempted during tobacco, alternative nicotine and vapor product compliance checks. The three types of over the counter cessation products currently approved by the FDA are nicotine gum, transdermal patches, and nicotine lozenges.

Why are some of the retailers listed in the I-pledge Tobacco, Alternative Nicotine and Vapor Product Enforcement Program website highlighted blue?

Retailers that indicated they were an alternative nicotine/vapor store on their permit applications are highlighted in blue within the I-pledge website. This does not mean that these retailers sell only vapor/alternative nicotine products but there is a high likelihood that this is the case. *It is recommended that the trooper find out what products these retailers sell prior to conducting compliance checks.* This way the trooper can ensure the youth is instructed to buy a product the retailer carries.

Common Brands and Prices of Vapor Products Carried by Iowa Retailers:



Blu

Starter Kit \$34.99, Refill Cartridges \$14.99, Single Use Vape \$9.99



Finiti

Single Use Vape \$6.99, Starter Kit \$24.99
New packaging item is called "Fin"



Vuse

Digital Vapor Cigarettes
Vape Starter Kit \$24.99, Single Use Vape \$9.99,
V-Liquid (Refill Cartridge) \$5.99



South Beach Smoke

Advanced Electronic Vaporizer
Starter Kit \$29.99, 10ml E-liquid \$7.99



NJOY

Vape Starter Kit \$29.99, E-Juice \$7.99



MarkTEN

Single Use Vape \$10

Please note these are only examples of prices and brands carried by some Iowa retailers. This information was collected in 2014 and may have changed since that time. Not all retailers will carry these brands and prices may vary from what is shown. Having the youth attempt to purchase a refill cartridge or single use vape may be the most cost effective option, as these items have prices that are comparable to traditional tobacco products.

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