

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
DIVISION OF ALCOHOLIC BEVERAGES AND TOBACCO  
BUREAU OF LAW ENFORCEMENT**

GENERAL ORDER: 5.04

EFFECTIVE: 03/11/2005

REVISED: 11/17/2021

**INVESTIGATIVE AIDES AND COMPLIANCE CHECKS**

**5.04.1 PURPOSE**

To establish guidelines regarding the Division of Alcoholic Beverages and Tobacco (Division or ABT), Bureau of Law Enforcement's (Bureau or BLE) use and recruitment of underage persons, herein referred to as Investigative Aides (IA), to conduct Compliance Checks.

**5.04.2 SCOPE**

General Order 5.04 applies to all members who use IAs or maintain IA documentation.

**5.04.3 REFERENCES**

Section 561.705, Florida Statutes  
Section 562.11, Florida Statutes  
Section 569.008, Florida Statutes  
Section 569.381, Florida Statutes  
Section 569.41, Florida Statutes

Section 569.101, Florida Statutes  
Section 843.02, Florida Statutes  
Public Law 116-94  
Rule 61A-2.022, Florida Administrative Code

**5.04.4 DEFINITIONS**

A. Center for Substance Abuse Prevention (CSAP)

A part of SAMHSA that assists states in complying with the Synar Amendment's goals by issuing programmatic requirements and guidance. CSAP is charged with overseeing Florida's implementation of the Synar requirements and provides technical assistance on the requirements and youth tobacco access issues in general. CSAP also provides guidance to states regarding the conduct of random, unannounced inspections.

B. Compliance Check

A process used by ABT to identify licensed premises where business owners or employees are selling alcoholic beverages and/or tobacco or nicotine products to underage persons.

C. Controlled Buy Method

The purchase of alcoholic beverages and/or tobacco or nicotine products sold to an underage Investigative Aide, which is overseen by law enforcement personnel.

D. Investigative Aide (IA)

An underage person who assists the Bureau in an effort to eliminate sales of alcoholic beverages and/or tobacco or nicotine products to underage persons:

1. The permitted age range for an IA to attempt to purchase an alcoholic beverage or nicotine product is 16-19 years of age.
2. The permitted age range for an IA to attempt to purchase a tobacco product is 16-19 years of age, unless SYNAR guidelines have a different requirement.
3. An IA that is 16-19 years of age and meets SYNAR guidelines may be used to attempt a purchase of an alcoholic beverage and/or a tobacco or nicotine product simultaneously.

- E. Substance Abuse and Mental Health Services Administration (SAMHSA)  
Oversees implementation of the Synar Amendment, which requires states to have laws prohibiting the sale and distribution of tobacco products to minors.
- F. SYNAR  
A reference to the Synar Amendment. In 1992, Congress enacted the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act, which includes an amendment aimed at decreasing youth access to tobacco. The Synar Amendment requires states to enact and enforce laws prohibiting the sale or distribution of tobacco products, as amended in Public Law 116-94, to individuals under the age of 21. States must comply with the Synar Amendment in order to receive their full Substance Abuse Prevention and Treatment Block Grant awards.

#### **5.04.5 POLICY STATEMENT**

It is the policy of the Bureau to conduct proactive enforcement activities to eliminate the sale of alcoholic beverages and/or tobacco or nicotine products to underage persons using IAs. IAs are not considered confidential informants and will only be used to conduct controlled buys of alcoholic beverages and/or tobacco or nicotine products. (CFA 15.03 H)

#### **5.04.6 PROCEDURES**

##### **A. Establishing IAs**

1. Children and other relatives of DBPR employees may be used as long as the sworn member does not take part in the operation.
2. The underage person's age must be within the parameters established by the IA definition, and the underage person must not have a criminal record, unless they are under court order to assist law enforcement.
3. All legal aspects of using persons under 18 years of age must be met including, but not limited to obtaining written parental consent before the use of an IA under the age of 18. The parental permission section of the Investigative Aide Agreement BLE-513 must be completed. A parent or legal guardian must be immediately available in case of an emergency during the use of an IA under the age of 18.
4. All IAs must appear underage. IAs will not wear a uniform, but will dress as is the custom of the community standards within the area they will be conducting compliance checks. Male IAs may not have facial hair (beards or mustaches), and female IAs may not be "dressed up" (hair and makeup) to appear older or wear revealing attire.

##### **B. Primary and Alternate IA Custodians**

IA files and the Master Log(s) will be kept locked with access limited to the District Captain and a designated Lieutenant who will be the primary IA File Custodian, while the District Captain also retains access and acts as the backup custodian. In cases where the District Captain does not maintain a physical office at one of the outlying District offices, a second Lieutenant or a sworn member may be given access who will act as a backup custodian. The duties of the primary custodian will include creating, maintaining and securing the IA Master Files in an area separate from the confidential informant files, and assigning the IA code number(s).

##### **C. IA Master Files and Guidelines**

1. Individual Master Files will include, but are not limited to, the completed BLE-513, photographs of each day worked, any applicable waivers, copy of the IA's driver license,

identification card or a birth certificate, the IA assigned code number and all original Investigative Aide Statement(s), BLE-514, Survey Log(s), BLE 321, and Investigative Aide Checkout Log(s), BLE-517.

2. The IA code number format will be as follows: "IA-YYYY-XXX-###" and will be placed on the outside of the individual IA Master File. Code numbers shall only be known by the IA, the sworn member using the IA, and the IA custodians. IA indicates an Investigative Aide file, YYYY indicates the year the IA was assigned, XXX indicates the District Office: GVL (Gainesville), FTM (Fort Myers), FTP (Fort Pierce), JAX (Jacksonville), MAR (Margate), MIA (Miami), ORL (Orlando), PCY (Panama City), PNS (Pensacola), TLH (Tallahassee), TPA (Tampa), and WPB (West Palm Beach,) and ### indicates a sequential three digit number restarting each year for new IA's at 001 (IA-2016-FTP-001, IA-2016-FTP-002, etc.)
3. Each IA Master File will maintain complete documentation for all the work performed including, but not limited to, the dates worked, locations checked, and whether a "buy" was made or refused.
4. Access to IA files shall be limited to BLE members or the law enforcement community having a compelling need to know or review those records or to those whose access has been required by court process or order. The District Captain or designated District Lieutenant shall make a notation of each person who accesses or reviews IA files. This notation will be logged on the Investigative Aide Checkout Log (BLE-517) in the applicable IA file so that all access to IA files is tracked and documented.

#### D. Safety and Protection of IAs

1. The safety and protection of an IA shall be the primary concern. Barring unusual or exigent circumstances, at no time during the course of an operation shall an IA be left unsupervised. In the event of an unusual or exigent instance, the IA shall be secured in the state vehicle or other safe area, equipped with a communication device and a number to reach the lead sworn member. Each time an arrest is made, the IA will be secured and supervised in the state vehicle. (CFA 15.03 G)
2. During any assistance with ABT, IAs shall be supervised by at least two sworn law enforcement officers, including at least one sworn ABT member.
3. All precautions and safety measures shall be used for the protection of the IA, Bureau members, other law enforcement officers, and the general public.
4. The identity of the IA must be held in strict confidence for their protection and to maintain the integrity of ABT investigative efforts. Information concerning IA's shall be disseminated only on a strict need-to-know basis. The possibility of court-ordered disclosure of an IA's identity should be considered during the course of an investigation.
5. Access to IA files shall be limited to BLE members or the law enforcement community having a compelling need to know or review those records or to those whose access has been required by court process or order. The District Captain or designated District Lieutenant shall make a notation on the Investigative Aide Checkout Log (BLE-517) in the applicable IA file so that all access to IA files is tracked and documented.

#### E. The Use of IAs (Guidelines)

1. The IA will be reminded of the conditions, restrictions, and procedures associated with his or her participation in the Bureau's investigative activities as noted by his or her signature on the BLE-513.
2. IAs are not considered confidential informants. Each day the IA is used, the sworn member

will take a photograph of the IA. The member will initial and date the photograph, attach it to the BLE-321, maintain the original documents in the IA Master File, and if an administrative case is filed, a copy of the photograph must be included as part of the evidence list and attached to the case report. Additionally, the member will ask the IA if he or she has a valid form of identification. If the IA does not have his or her valid ID in his or her possession, no work shall be conducted.

3. IAs will be briefed on what is expected of them during the course of performing a controlled buy, what their duties and responsibilities are after each buy or buy attempt, and be instructed on how to attempt a purchase. The IA will be reminded to, if asked, present his or her valid ID for proof of age and to correctly state his or her age if asked by an employee while attempting to make a controlled buy.
4. IAs possessing a valid driver license may drive his or her own vehicle, when necessary, in performing his or her IA duties; however, at no time will an IA operate a state vehicle. In order for the IA to drive his or her own vehicle his or her driving record will be checked. If the driving record shows more than three moving traffic violations, the IA will not be permitted to drive his or her own vehicle.
5. Immediately after each “buy” the IA will exit the premises, be debriefed, and label all evidence (date and IA code number) for future identification in any criminal or administrative proceeding. Sworn members will ensure the labels are true and correct, will initial the evidence to indicate inspection of the label, and prepare and sign a sworn BLE-514.
6. If the “buy” results in an administrative case, a copy of the completed BLE-514 with the IA’s code number redacted will be listed as a supporting exhibit and attached to the case report.
7. If the IA has any additional cash on their person, it is required that the personal cash be separate from the investigative and Evidence (I & E) monies at all times.

#### F. Compliance Checks (CC)

1. Compliance checks are classified in Versa: Regulation (VR) as YAR (Youth Alcohol Random), YAC (Youth Alcohol Complaint), YAM (Youth Alcohol Mandated), YTR (Youth Tobacco Random), YTC (Youth Tobacco Complaint), YTM (Youth Tobacco Mandated - SYNAR), YNR (Youth Nicotine Random), YNC (Youth Nicotine Complaint), YNM (Youth Nicotine Mandated), and YNR (Youth Nicotine Random).
2. If an owner or employee of a licensed premises sells alcoholic beverages and/or tobacco or nicotine products to an IA, the owner or employee may be arrested or given a Notice to Appear (NTA) and a Record of Inspection – Official Notice Form BLE-700\_ROV will be issued to the licensee.

Plain clothed members will accurately and expeditiously identify themselves as state law enforcement officers, using their Bureau-issued badge and credentials. When it is necessary for officer safety reasons, members may require the business door to be secured while conducting an arrest. The subject and witnesses should not be permitted to walk around the business. Any members of the public, who are not a part of the investigation, should be directed to leave the business or directed to relocate within the store while the arrest is taking place. If the compliance check takes place in a licensed premises with more than one employee, the subject shall be relocated to a private area, if available, and allow the business to operate as normal. In the event the subject is physically arrested, see General Order 4.01 Arrest and 4-9 Field Investigations.

3. The results of all compliance checks, including each arrest, will be entered into VR in a timely manner and indexed appropriately. The license type related to the business complaint will be

selected. The Bureau will maintain a record of each arrest at licensed premises for a violation(s) of ss. 562.11, 569.011, and/or 569.41 Florida Statutes. In compiling the record of arrests, the member will determine and document in the VR system if the vendor trained its employees in a manner similar to the provisions of ss. 561.705, 569.008, and/or 569.381 Florida Statutes, determine if responsible vendor training has been provided to the arrestee, indicate in the report whether or not the arrestee or other store employees were aware of the responsible vendor training, and obtain all necessary information as required in the VR system.

4. In each instance, unless the violator is the store owner or officer of the corporation, a second, and if necessary, a third compliance check will be conducted to ensure compliance within a 12 week period for alcohol purchases and 180 day period for tobacco or nicotine purchases. An administrative action will be initiated against the licensed premises if the violator was the store owner, officer of the corporation, or if three violations occurred by the employees within a 12 week /180 day period, as referenced in rule 61A-2.022, Florida Administrative Code.
5. When conducting simultaneous compliance checks at the same location, one criminal case number shall be used if more than one violation occurs by the same violator.

#### G. IA Monetary Compensation

1. IAs will be compensated a nominal fee not to exceed \$50.00 per day, unless approved by the Chief or designee, for their meals, snacks, mileage, and any other incidental expenses (attach receipts to the I&E report if available).
2. Members are required to document any compensation paid to an IA, along with a justification as to why such compensation was reasonable under the circumstances. The justification shall include, at minimum, the amount of time the IA spent assisting the Bureau, the number of licensed locations where compliance checks were conducted, the actual expenses incurred by the IA, and any extraordinary circumstances that support the amount of compensation provided.
3. IAs are not employees of DBPR or ABT and may not receive a wage, salary, or other employment compensation other than the maximum fee of \$50.00 per day the IA works.
4. All payments to an IA must be receipted by using the official receipt book. The IA must use their code number on all receipts (exception of the green and yellow copies which will have the IA's original signature).
5. The white copy will be submitted to the Office of the Chief, and the pink copy will be maintained within the district office files. The yellow and green copies will include an original signature and will be attached to the Survey log(s), BLE-321.

#### H. Seizure of IA Identification (ID)

1. On occasion, licensees or their employees will seize the valid ID belonging to and used by the IA during a controlled buy. In such incidents, the IA will immediately report the seizure to the sworn member and will not be allowed to remain in the premises.
2. The retrieving member will remain professional and courteous when communicating with the individual unlawfully possessing the valid ID. The member will properly identify themselves, explain the purpose of his or her visit, explain that the IA was working under the member's direction and control, explain that the licensee or employee is unlawfully in possession of the valid ID, and is in violation of Florida State Statute 843.02, Resisting officer without violence to his or her person. The member must further explain that failure to return the ID may result in criminal charges and that the ID used by the IA is valid and lawfully issued to the underage IA and is not, in anyway, altered and must be returned to them. If after proper notification of

the above, the person still refuses to return the valid ID, a sworn member or other law enforcement will place the subject under arrest for the aforementioned violation. Upon retrieval of the valid ID, it shall be photographed for evidentiary purposes and returned to the IA.

I. Industry Cooperation Program

1. The Bureau will work closely with industry members who suspect employees are selling alcoholic beverages and/or tobacco products to underage persons.
2. Any investigative request of this nature must be submitted in writing to the District Captain and should include a pro-active management plan established in writing by the licensee to prevent unlawful sales to underage persons. A log of surveillance and controlled buys the licensee has completed at a particular location and the results, and the licensee's proposed plan of a joint investigation including the furnishing of a documented source shall be provided.
3. Sworn members will proactively provide information to licensees concerning the provisions of ss. 561.705, 569.008, and 569.381, Florida Statutes, and other methods to prevent sales to underage persons.

J. SYNAR Guideline Updates

1. The Training Section, in conjunction with the ABT Synar Liaison, will distribute updated SYNAR guidelines in Power DMS, where all BLE members be acknowledge receipt and review.

**5.04.7 Forms**

BLE-321 Survey Log(s)  
BLE-513 Investigative Aide Agreement  
BLE-514 Investigative Aide Statement  
BLE-517 Investigative Aide Checkout Log  
BLE-700\_ROV Record of Inspection – Official Notice