

Van Schaik, Katherine MEM:EX

From: Bieller, Barry MEM:EX
Sent: Tuesday, November 6, 2012 10:32 AM
To: Stephenson, Cindy MEM:EX; Edmundson, Bruce MEM:EX; Ayers, Karen J MEM:EX
Cc: Caldwell, Cheryl Y MEM:EX; Jones, Kathleen MEM:EX
Subject: RE: CBC Media Request - MAP Restaurant Testing Results

I think we should. The info will be publicly posted at some point anyways.
With that sort of compliance rate a bit of media coverage might help increase it.

From: Stephenson, Cindy MEM:EX
Sent: Tuesday, November 6, 2012 10:18 AM
To: Edmundson, Bruce MEM:EX; Ayers, Karen J MEM:EX; Bieller, Barry MEM:EX
Cc: Caldwell, Cheryl Y MEM:EX; Jones, Kathleen MEM:EX
Subject: RE: CBC Media Request - MAP Restaurant Testing Results

I did check into that and 9 cases have concluded - we could release the names if you wish.

Cindy Stephenson

Policy, Planning and Communications
Liquor Control and Licensing Branch
Phone: 250 952-5761 Fax: 250 952-7066
Email: Cindy.Stephenson@gov.bc.ca

From: Edmundson, Bruce MEM:EX
Sent: Tuesday, November 6, 2012 10:16 AM
To: Stephenson, Cindy MEM:EX; Ayers, Karen J MEM:EX; Bieller, Barry MEM:EX
Cc: Caldwell, Cheryl Y MEM:EX; Jones, Kathleen MEM:EX
Subject: RE: CBC Media Request - MAP Restaurant Testing Results

This looks fine to me, however we haven't answered the question about which stores have failed and paid any penalty.
There are several of those. Heather will have that.

Not sure if we want to state this or not. It is publicly available, but delayed a bit due to the lag in updating the enforcement actions on the web site.

Bruce Edmundson
Deputy General Manager
Compliance and Enforcement Division
Liquor Control and Licensing Branch
phone: 250 952 7037
website www.pssg.gov.bc.ca/lclb

From: Stephenson, Cindy MEM:EX
Sent: Tuesday, November 6, 2012 10:11 AM
To: Ayers, Karen J MEM:EX; Edmundson, Bruce MEM:EX; Bieller, Barry MEM:EX
Cc: Caldwell, Cheryl Y MEM:EX; Jones, Kathleen MEM:EX
Subject: CBC Media Request - MAP Restaurant Testing Results
Importance: High

Date/Time: 6/November/8:30 am

Deadline @ end of day Wednesday

Media: CBC News Vancouver

Reporter: Enza Uda, 604 662 6909, enza.uda@cbc.ca

Topic: Minors as Agents Program – Restaurant Inspections

Background:

Questions: if there are numerous questions, set in Q&A format.

Would you be able to send us the results of this testing? Which restaurants were not in compliance? And were any of the restaurants penalized? If so what were the penalties? Which restaurants were found in compliance?

If you can't name the restaurants specifically at this point, would you be able to send us the numbers?

How many restaurants did you test, where did you do the testing, and the number that served underaged clients vs. the number that did not? Were these restaurant chains? What more can you tell us at this point?

Suggested Response:

- To date the Minors as Agents Program has tested 29 restaurants and 20 were found to have sold to a minor.
- The Province does not disclose the names of individual establishments until any penalties issued have been served. We will also let individual establishments know if they have been inspected if the licensee asks.
- The penalty for a first offence ranges from \$7,500 – \$10,000 or a 10 - 15 day licence suspension, with most licensees receiving a \$7,500 fine. Licensees can either accept the penalty or request an enforcement hearing.
- The Province is focusing on restaurants that cater to a younger clientele, and where information has been received that an establishment may be serving minors.

Program Area Approval Contact:	Karen Ayers
-----------------------------------	-------------

Cindy Stephenson

Policy, Planning and Communications
Liquor Control and Licensing Branch
Phone: 250 952-5761 Fax: 250 952-7066
Email: Cindy.Stephenson@gov.bc.ca

Liquor Control and Licensing Branch Minors as Agents Program (MAP)

2011/ 12 Annual Report

This is a first annual report on the Liquor Control and Licensing Branch's (LCLB) use of minor agents to monitor compliance with the legislative prohibition against selling liquor to minors. This report was preceded by an interim report issued in November 2011. This report covers the 2011/ 12 fiscal year up to March 31st, 2012.

Background

In 2010 government amended the *Liquor Control and Licensing Act* to provide authority for a minor employed or contracted by the province to legally purchase liquor from all types of liquor retail outlets and licensed establishments for the purpose of testing licensee compliance with the Act's prohibition on supplying liquor to a minor¹.

The MAP follows a series of previous Compliance Check Projects (CCP), which involved the use of youthful-appearing adults attempting to purchase liquor. Youthful-looking agents were chosen specifically to raise questions as to whether they were, in fact, minors. CCP agents were hired to enter liquor retail outlets and test for compliance with the requirement to request identification to determine the age of a person to whom liquor is being sold. The CCP began in 2003 and went through various iterations up until 2008/2009. However, as the agents were 19 or older, the LCLB did not have authority to take enforcement action against those establishments which failed to request identification.

The table below shows the results of the CCP from 2003 through 2009. The compliance rate is a measure of the percentage of times the sales person requested 2 pieces of identification from the youthful-looking agents. Between 2003 and 2009 the compliance rate was very low, particularly in private liquor stores, and did not generally improve over time. The overall provincial compliance rate for 2009 was 29 %. This clearly demonstrated an ongoing problem with age verification when purchasing alcohol and as a result highlighted the ongoing risk of minors accessing alcohol through liquor retail outlets.

¹ Section 33(1) of the Liquor Control and Licensing Act

Compliance Check Project Compliance Rates 2003 – 2009 Results by Store Type				
	GLS² (%)	RAS³ (%)	OTHER⁴ (%)	LRS⁵ (%)
2003	N/A	N/A	N/A	15
2004	57	13	5	27
2005	60	17	14	21
2008*	77	24	20	36
2009	56	22	33	26

* Identification checking requirements changed in February, 2007 from checking two pieces of any person appearing to be under the age of 25 years to checking two pieces of identification when verifying age

The low compliance rate coupled with the challenges of using regular inspection methods to identify licensees selling liquor to minors, led to the Act amendment and the development of the current MAP. The use of minors is a very effective and efficient method for enforcing age-of-sale laws. This approach has been used with great success by a number of American jurisdictions and here in British Columbia for enforcement of the *Tobacco Control Act*. The amended legislation now provides tools for the LCLB to ensure incidents of non-compliance are met with appropriate enforcement action that aims to decrease the commercial availability of alcohol to youth.

MAP Program Goals

The LCLB's goal for inspections and enforcement action is to promote voluntary compliance. In that context, the implementation of the MAP is intended to promote compliance with the prohibition against selling liquor to minors.

Prior to the launch of the MAP, LCLB notified all licensee retail stores, manufacturers, rural agency stores, and wine store appointees by direct mail about the Act amendment and the specifics of the new program. LCLB also publicized its program through press releases and its *Liquor Line* newsletter. The Liquor Distribution Branch issued a memorandum to its government liquor store employees regarding the program, and industry association ABLEBC (Alliance of

² Government Liquor Stores

³ Rural Agency Stores

⁴ Other private liquor stores, including VQA Stores, Independent Wine Stores, Brewery Stores, and Commercial and Land Based Wine Stores

⁵ Licensee Retail Stores

Beverage Licensees of British Columbia) included an article on the new program in its spring 2011 edition of *The Publican* newsletter. As well, where a contravention has been found either by way of a waiver or by a decision from the general manager's hearing delegate, the results are posted on the LCLB web site.

As an added incentive to be compliant, those stores who have sold to a minor have now been identified as high risk for future non-compliance, and they will be tested again. If a store is found to be selling to minors a second time, and the date of the second contravention is within twelve months of the first, the penalty is a 20 – 30 day licence suspension.

The purpose of these communications efforts was to remind liquor retail outlets of their responsibility to refuse service to minors, to highlight the importance of this requirement as a significant public safety issue and focus of branch enforcement activity, and to encourage voluntary compliance.

Risks Associated with Youths Accessing Liquor

The 2004 Canadian Addictions Survey⁶ revealed that 91% of youth aged 15 years and older have consumed alcohol at some point. Alcohol is clearly part of the youth and young adult culture.

While the fact of liquor consumption by youth and especially by minors is troubling, even more worrisome are the patterns of consumption exhibited by youth. The Centre for Addiction and Mental Health's low-risk drinking guidelines specify no more than two drinks per day with a maximum of 14 drinks per week for men and nine for women. However, the Canadian Addictions Survey revealed that more than 90% of 15-24 year old males and 85% of similarly aged females exceed these low risk drinking guidelines. Forty percent of those 12 and older reported occasionally binge drinking, which is defined as consumption of more than five standard drinks on a single occasion for males or more than four drinks for females.

The Canadian Addiction Survey also points out that binge drinking on a monthly or more frequent basis is one of the strongest predictors of alcohol-related harm. Binge drinkers are almost twice as likely to experience harm as those who never engage in heavy drinking. There is considerable overlap in the research between binge drinking among youth and other at-risk behaviours, such as youth violence and delinquency. The age at which young people start consuming liquor is also known to be a strong predictor of risk for a number of health and social problems, such as violence, sexual assault, unwanted pregnancy, crime, traffic accidents, and the inter-generational effects of drinking during pregnancy (Fetal Alcohol Syndrome Disorder). There is also a correlation between heavy alcohol use and mental health conditions (e.g. depression, anxiety), and serious negative effects on work, study, and relationships, especially within the family.

⁶ Adlaf, E.M., Begin, P., & Sawka, E. (Eds.). (2005). *Canadian Addiction Survey (CAS): A national survey of Canadians' use of alcohol and other drugs: Prevalence of use and related harms: Detailed report*. Ottawa: Canadian Centre on Substance Abuse.

Approaches that limit the availability of liquor have been shown repeatedly to be some of the most effective ways to manage alcohol-related harm. Easy access to liquor has been linked to increased overall consumption, which is in turn linked to risky use and increased alcohol-related health and social problems⁷. The BC Provincial Health Officer reports that per capita alcohol consumption in BC increased in nine of the ten years between 1996 and 2006 based on Statistics Canada data. Beginning in 2002, consumption increased more quickly in BC than for the rest of Canada. This diverging trend has created a 0.5 litre per capita gap between average consumption in BC and average consumption for all of Canada in 2008⁸.

The branch is responsible for mitigating the harms associated with the sale and service of liquor in and around licensed establishments. The harm associated with the growing availability of liquor to minors is troubling. Using minors as agents to test compliance will not completely prevent youths from accessing liquor however a robust compliance effort coupled with meaningful enforcement will significantly limit access and promote compliance.

Education and a certainty of apprehension are two highly influential factors in obtaining compliance. The awareness of the MAP and the potential for a considerable penalty is intended to significantly improve compliance with age-based liquor restrictions. This program will also contribute to an overall social and business culture of intolerance toward the easy access of liquor by minors.

MAP Inspection Policies and Procedures

LCLB operates MAP as one component of its compliance and enforcement activities. The Compliance and Enforcement Division, with a staff of 35 liquor inspectors province-wide, regulates the operation of over 10,000 permanent licensed establishments and appointment stores and about 25,000 special occasion licensed (SOL) events annually.

The MAP is designed to evolve in measured and informed increments. It is the first program of its kind in the country. As such, and given the primary safety considerations of the minor agents involved, the branch has proceeded with caution. In this context, the program began in May 2010 in the urban centres of Vancouver Island and the Lower Mainland, where the greatest number of retail outlets are concentrated. All types of liquor retail outlets in those geographical areas were visited. The program has now reached into the interior and northern regions of the province.

A primary consideration during the development, training and launch of the MAP was the safety of the minor agents. The parents of all minor agents hired for the

⁷ Peter Anderson and Ben Baumberg, (2006) *Alcohol in Europe: A Public Health Perspective. A report for the European Commission*. Institute of Alcohol Studies, UK.

⁸ British Columbia. Office of the Provincial Health Officer. Public health approach to alcohol policy: an updated report from the Provincial Health Officer, December 2008.

program were required to provide their consent and were fully informed throughout, and the training included orientation in WorkSafe BC safety standards. The agents also received training in making and documenting observations, and were specifically instructed not to change their normal appearance or attire, to respond truthfully to any staff inquiries, and not to provide false identification.

The minors used for the project were selected through police contacts, schools with law enforcement programs or previous participation in the age based tobacco enforcement program. Minor agents are paid while being trained, for travel time, while conducting inspections and while giving evidence at any hearing.

Minor agents are accompanied by two liquor inspectors. At the beginning of each inspection shift, the minor agent is photographed and their identification is documented by the inspectors. Prior to commencing an individual inspection, the inspectors assess the store for risk. Once the store has been deemed safe, the minor enters under close observation by the inspectors, selects a product, and attempts a purchase. Store logistics dictate the proximity of the inspector, however the inspector stays as close to the minor agent as possible at all times. Where a minor agent is asked for identification they state they can go and get it. The minor does not in any manner attempt to convince a clerk to make the sale.

Once back in the vehicle, if the purchase attempt has been successful, the minor turns over any purchased liquor and receipt to the liquor inspector for proper retention and documentation. The minor then immediately fills out an observation report and any successful purchase attempts is also documented by the liquor inspector.

A team may conduct up to 20 inspections a shift, however this can vary dramatically depending upon the geography, the weather, and the results; where a sale occurs it takes much more time to process the evidence and tell the licensee of what has taken place.

In those cases where purchase attempts have been successful, the store's staff did not request identification. In some cases, the inspectors have reported that the claimed to know the minor, and therefore identification wasn't necessary,⁹ or the clerk told the minor "not to worry about it". Of significant concern are those cases where sales staff have sold liquor to the minor agent despite acknowledging their obvious youth.

MAP Enforcement Action

If the minor is able to buy liquor the store is issued a contravention notice (CN) for the alleged contravention, often within an hour of the sale. Once the CN is issued, the branch then issues a notice of enforcement action (NOEA) outlining the particulars of the branch's allegations and setting out the proposed penalty.

⁹ Minors do not enter retail outlets where there is a possibility that they are known, rather they work outside the area in which they live and or attend school.

The store has the option to:

- Admit that the contravention occurred and accept the proposed penalty; or
- Admit that the contravention occurred but dispute the proposed penalty; or
- Dispute that the contravention occurred.

If the store disputes the matter in any way, the general manager's hearing delegate will conduct an enforcement hearing. LCLB oral hearings generally take place in the same community where the retail outlet is located. However, they can also take place by way of written submissions or teleconference call. The hearing decision is issued in writing. If the store is dissatisfied with the decision, they may petition for a judicial review by the BC Supreme Court.

At any time after receipt of the NOEA, the subject may waive their opportunity for a hearing by admitting that the contravention occurred and accepting the proposed penalty.

MAP Results

The following table summarizes MAP inspection results since the launch of the program, which coincides with the 2011/12 fiscal year.

MAP Compliance Statistics Fiscal Year 2011-2012 Results by Store Type

	GLS	LRS	RAS	Other
Total Inspections	95	303	5	2
Sales to a minor	4	51	1	1
Non-compliance rate	4 ¹⁰ %	17 %	not yet available	not yet Available
Compliance Rate	96 %	83 %		

There are 1383 liquor retail outlets in the province¹¹. To date, the branch has tested approximately 45 % of all Licensee Retail Stores (LRS) and 48 % of all Government Liquor Stores (GLS).

¹⁰ All figures are rounded to the nearest 1 %.

¹¹ 2010/11 Liquor Distribution Branch Annual Report: 197 government liquor stores, 672 licensee retail stores, 223 rural agency stores, 233 on-site manufacturer stores, 35 off-site manufacturer stores, 12 private wine stores, and 11 duty free stores.

Preliminary MAP results for both government liquor stores and licensee retail stores are encouraging, indicating that the first year of the new program has been very successful in preventing the sale of liquor to minors.

While the MAP shares elements in common with previous, similar programs (CCP), there are also significant differences. While CCPs focussed on the requirement to check identification for the purposes of purchasing liquor, the use of minor agents in the MAP has allowed the branch to focus on the more critical public safety issue, which is the actual sale of liquor to a minor. For these reasons it is difficult to draw comparisons between the two programs, particularly with respect to compliance rates.

Few Rural Agency Stores (RAS) and other types of liquor retail appointment stores have been tested to date since there were very few of these types of stores in the test areas. An insufficient number of these types of stores have been inspected at this point in time for any conclusions to be reached. Once the program expands more broadly into more rural areas, the RAS test rate is expected to increase. In addition, some types of outlets pose inspection challenges due to restricted opening hours and limited stock. LCLB will continue over time to test as many liquor retail outlets as possible in the province while focussing on those establishments identified as high risk as the MAP becomes an integral tool in the compliance and enforcement program.

For a first contravention of selling liquor to a minor, the Liquor Control and Licensing Regulation penalty schedule sets out a monetary penalty of between \$7500 to \$10,000 and or a 10 – 15 day suspension. If a second contravention should occur¹², the penalty schedule provides for a 20 – 30 day suspension.

For the purposes of the MAP roll out the LCLB will generally recommend the minimum monetary penalty of \$7500 unless the outlet has a compliance history of similar activities or the facts of the individual case warrant a different penalty. Some critics of monetary penalties argue that some businesses see a monetary penalty as merely being the cost of doing business. Critics of suspensions say it unfairly impacts the liquor retail outlet's staff. The purpose of any penalty is to promote future compliance. The regulatory scheme places ultimate responsibility on the business. It is the business that is responsible for selling the liquor to a minor and it is the business that is responsible for the consequences of violating the Act.

To date, all recommended penalties have been the minimum \$7500 monetary penalty.

¹² The Penalty Schedule under the Liquor Control and Licensing Regulation defines a second contravention as the same contravention occurring within one year of the previous contravention.

A summary of MAP enforcement activity as of March 31st, 2012 is as follows:

Contravention Notices Issued	57
Notices of Enforcement Action (NOEA) Issued	51
Notices of Enforcement Action Withdrawn	1
Waivers signed	33 (65 %)
Proceeding by way of an enforcement hearing	10
Licensee has not yet decided how to proceed (i.e., by signing a waiver or attending a hearing)	7
Hearing decision pending	3
Hearing decision issued (proven)	7
Hearing decision issued (not proven)	1

All enforcement hearing decisions, waiver summaries, and a monthly *Compliance and Enforcement Summary Report* are available to the public on the Branch's website.

Next Steps

Given the initial success of the MAP, LCLB is expanding MAP to other areas of the province and also intends to eventually use MAP to monitor compliance in other types of licensed establishments.

Conclusions

Restricting access to liquor by minors is a key public safety priority for the LCLB. The LCLB believes that awareness of the MAP inspections, coupled with a strong likelihood of apprehension and significant penalties is an effective strategy in preventing the sale of liquor to minors.

Initial MAP inspection data indicates that the program is having a significant and positive impact on voluntary compliance. We are satisfied with the results of the program to date.

Industry groups and LCLB have worked together to provide free tools such as signage and education for liquor retail stores and their staff. The LCLB is handing out decals that assist licensee staff in determining a person's age when checking identification. The media has assisted by writing articles on the program which creates further awareness. All retail stores have been individually notified of the MAP and the LCLB is confident that licensees/ appointees and their staff are aware of the MAP inspections and their obligation to ensure they and their employees do not sell to minors. Requesting and assessing identification is a simple and brief process. Therefore, a failure to comply with the law regarding the sale of liquor to minors cannot reasonably be attributed to a lack of knowledge.

Instead, LCLB must conclude that liquor sales to minors are the result of a lack of adequate training and supervision of liquor retail store staff or are motivated by a desire for profit at the expense of public safety. Those stores who have sold to a

minor have now been identified as high risk for future non-compliance and they will be tested again.

LCLB expects that as the program continues, it will have a further positive impact on preventing liquor sales to minors. We will continue to monitor the success of the program and provide annual reports at the end of each fiscal year.

A Map of the MAP for Fiscal 2012/ 13

This report will set out the evolution of the Minors as Agents Program [MAP] through the 2012/13 fiscal year and is intended for LCLB Executive and C&E Division Staff.

According to Teenage Research Unlimited, 51 percent of 13-15 year olds say they will be faced with making a decision regarding alcohol in the next three months.

BACKGROUND

The MAP is one among many tools that can be used by inspectors to test for and promote future compliance. The MAP began operations in March of 2011. A careful, controlled launch was led and implemented by Regional Inspectors [RI] with oversight by Regional Managers [RM]. MAP policy evolved as inspection experience with the new program grew, and this approach has proved very successful. This incremental approach will be maintained through 2012/13.

s.13

s.13

Similar, previous programs that were used to monitor compliance with the identification checking requirements had a compliance rate of only 29%. Since the ultimate goal of both programs was to prevent sales to minors, the MAP program has been shown to be extremely effective in addressing this important public safety issue.

We want to develop a program that is dynamic enough to ensure the flexibility necessary to implement the lessons learned as the program rolls out. We want to balance this flexibility with clearly set out the roles and responsibilities which ensure accountability and recognition on both an individual and an organizational basis. Accordingly, this map to the MAP is an opportunity to set our goals and clarify roles and responsibilities in meeting those goals.

s.13, s.15

MAP was initially rolled out in Victoria, Vancouver, and Surrey. It has since expanded to include the rest of Vancouver Island, Kelowna, Kamloops and Prince George. It is our intention to eventually cover the entire province.

MAP has faced numerous challenges: access to suitable minors, a consistent, appropriate and efficient contracting process, the consistent application of the operational protocols, and the logistics of a large and diverse province. These challenges will not go away of their own accord however sound and principled protocols will continue to enable us to overcome challenges as they arise.

Senior C&E Division staff met in mid-February to plan MAP for the upcoming year and that plan was subsequently approved by the general manager. As context for the plan, we were always aware of the continuing resourcing expectations placed on the entire division, e.g. inspecting SOLs and other future potential workload increases such violation tickets, Stanley Cup playoffs and where any MAP evolution may fit into this overall scheme of prioritizing workload.

We prioritize work load by focussing on public safety. The retail sale of liquor to minors is a high risk public safety issue, and is recognized by health professionals, parents, teachers, and police as an ongoing and significant concern. The MAP will not prevent youth from accessing alcohol, however, it can potentially severely limit youth's access to alcohol from retail outlets and it will raise the public profile of this issue.



2012/13 TARGETS:

1. Retail Outlets:

s.13, s.15

We will also target and re-inspect those retail outlets that have been identified as high risk outlets due to their history of sales to a minor.

Pages 14 through 16 redacted for the following reasons:

s.13, s.15

s.13, s.15

ROLES AND RESPONSIBILITIES

Deputy General Manager:

1. Overall accountability for the program.
2. Strategic Direction.
3. The MAP Annual Report.

Regional Managers:

1. Provide staffing and logistical support for MAP inspections.
2. Incorporate MAP into performance planning.
3. Support inspectors taking a proactive approach to MAP goals.

Regional Inspectors:

1. Develop, test and implement MAP inspection protocols.
2. Recruit, hire and train agents.
3. Operate Pilot programs and make recommendations for changes.
4. Conduct MAP inspections.
5. Liaise with branch advocates on protocols and hearing developments.
6. Liaise with agents for scheduling and respond to questions or concerns.

Liquor Inspectors:

1. Conduct MAP inspections.
2. Recruit agents.
3. Identify targets.
4. Plan operations.

Advocates:

1. Review and comment on inspection protocols.
2. Identify program area challenges and propose amendments.

Policy, Planning and Communications:

1. Review and revise MAP materials, e.g. training, forms, etc.
2. Liaise with Management Services on the development of MAP-specific POSSE reports.
3. Assist with preparation of MAP annual reports.
4. Prepare communications materials for reporting out on MAP results.
5. Manual updates as required.

Management Services

1. To have a 1 person point of contact for contract administration.

SUMMARY

The MAP is not intended to take precedence over all other options for promoting compliance, nor is it intended to be our sole means of testing for minors accessing alcohol. We have other options such as joint police and inspector actions in establishments where we receive intelligence that minors are active. As with any other program in its early stages, MAP will require additional resources. In the longer term, once the MAP is fully integrated into the compliance and inspection program, we expect it will require fewer resources.

We have embarked on an interesting, challenging and effective new program. With the continued input, advice and support from everyone in the Branch, and especially in C&E, we and the MAP will continue to succeed and make a real and significant contribution to safer communities.

Yours truly

Bruce Edmundson
Deputy General Manager
Compliance and Enforcement Division
Liquor Control and Licensing Branch

MAP

Minors as Agents

Using minors as covert agents to test for compliance with age-of-sale laws.

A MAP for B.C.

- ▣ History
- ▣ The Law
- ▣ The Process
- ▣ The Challenges
- ▣ The Results
- ▣ What's next.

History:

The Compliance Check Project Compliance Rates 2003 – 2009 Results by Store Type

	GLS %	RAS %	LRS %
2003	n/a	n/a	15
2004	57	13	27
2005	60	17	21
2008	77	22	36
2009	56	24	26

The Law (paraphrased)

Section 34 (1) of the Liquor Control and Licensing Act prohibits minors from entering licensed establishments other than in prescribed circumstances.

The Act was amended to add:

This section does not apply to a minor who is employed by police or the general manager to test the compliance with age-of-sale laws.

The Process

Hiring the Minors:

- a) Making Contact – police, schools, tobacco test-shopper program graduates....
- b) Obtaining consent – guardians and parents, contracts in a government context.
- c) Training - workers' compensation board (safety) operational training/ making observations

The Process continued....

Pre-inspection:

- a) photos and review
- b) Site evaluation – safety is everything.

The Process continued....

Inspection:

- a) Always 2 inspectors –
- b) Always 1 inspector inside –
- c) Minor carries no identification –

The Process continued....

Post Inspection:

- a) Agent Documentation Forms
- b) ASAP licensee notice of non-compliance, e.g. 30 minutes

The Process continued....

The Hearing:

- a) We rely on the direct evidence of the inspector,
- b) Only call the minor on demand.

The Challenges....

- ▣ Finding Good Minors – they are teenagers after all
- ▣ Mom and Dad
- ▣ Contracts and employment issues
- ▣ Legal Counsel for the Licensees
- ▣ Perceptions of entrapment – openness – transparency – due process.
- ▣ Consistency of application.
- ▣ Mission Creep.

The Results

Government Liquor Stores:

- ▣ 69 MAP inspections
- ▣ 2 sales
- ▣ 98 % compliance rate
- ▣ 2 contravention notices issued
- ▣ 1 Waiver signed - \$7500 monetary penalty
- ▣ 1 outcome pending.

The Results

Licensee Retail Stores:

- ▣ 226 inspections
- ▣ 38 sales – non compliance
- ▣ 82 % compliance rate
- ▣ 38 contravention notices issued
- ▣ 26 waivers signed - \$7500 monetary penalty each
- ▣ 4 hearing decisions issued – all for the Branch
- ▣ 8 hearings scheduled and or decisions pending

What's next...

Step by measured Step

- ▣ Restaurants and Lounges
- ▣ Delivery Services
- ▣ Special Occasion Licences
- ▣ Liquor Primaries, i.e. Bars and nightclubs.

QUESTIONS



Liquor Control and Licensing Branch Minors as Agents Program (MAP)

November 2011 Report

This is a first interim report on the Liquor Control and Licensing Branch's (LCLB) use of minors as agents to monitor compliance with the legislative prohibition against selling liquor to minors. LCLB will be reporting MAP results henceforth on an annual basis.

Background

In 2010 government amended the *Liquor Control and Licensing Act* to provide authority for a minor employed or contracted by the Province to legally purchase liquor from all types of liquor retail outlets and licensed establishments for the purpose of testing compliance with the Act's prohibition on supplying liquor to a minor¹.

The MAP follows a series of previous Compliance Check Projects (CCP), which involved the use of youthful-appearing adults attempting to purchase liquor. Youthful-looking agents were chosen specifically to raise questions as to whether they were, in fact, minors. CCP agents were hired to enter liquor retail outlets and test for compliance with the requirement to request identification to determine the age of a person to whom liquor is being sold. The CCP began in 2003 and went through various iterations up until 2008/2009. However, because the agents were 19 or older, the LCLB did not have authority to take enforcement action against those establishments which failed to request identification.

The table below shows the results of the CCP from 2003 through 2009. The compliance rate is a measure of the percentage of times the sales person requested two pieces of identification from the youthful-looking agents. Between 2003 and 2009 the compliance rate was very low, particularly in private liquor stores, and did not generally improve over time. The overall provincial compliance rate for 2009 was 29 per cent. This clearly demonstrated an ongoing problem with age verification when purchasing alcohol and highlighted the ongoing risk of minors accessing alcohol through liquor retail outlets.

¹ Section 33(1) of the Liquor Control and Licensing Act

**Compliance Check Project
Compliance Rates 2003 – 2009
Results by Store Type**

	GLS² (%)	RAS³ (%)	OTHER⁴ (%)	LRS⁵ (%)
2003	N/A	N/A	N/A	15
2004	57	13	5	27
2005	60	17	14	21
2008*	77	24	20	36
2009	56	22	15	27

* Identification checking requirements changed in February, 2007 from checking two pieces of any person appearing to be under the age of 25 years to checking two pieces of identification when verifying age

The low compliance rate, coupled with the challenges of using regular inspection methods to identify liquor retail stores selling liquor to minors, led to the Act amendment and the development of the current MAP. The use of minors is a very effective and efficient method for enforcing age-of-sale laws. This approach has been used with great success by a number of American jurisdictions and here in British Columbia for enforcement of the *Tobacco Control Act*. The amended legislation now provides tools for the LCLB to ensure incidents of non-compliance are met with appropriate enforcement action that aims to decrease the commercial availability of alcohol to youth.

MAP Program Goals

The LCLB's goal for inspections and enforcement action is to promote voluntary compliance. In that context, the implementation of the MAP is intended to promote compliance with the prohibition against selling liquor to minors.

Prior to the launch of the MAP, LCLB notified all licensee retail stores, manufacturers, rural agency stores, and wine store appointees by direct mail about the Act amendment and the specifics of the new program. LCLB also publicized its program through its *Liquor Line* newsletter. The Liquor Distribution Branch issued a memorandum to its government liquor store employees regarding the program, and industry association ABLEBC (Alliance of Beverage Licensees of British Columbia)

² Government Liquor Stores

³ Rural Agency Stores

⁴ Other private liquor stores, including VQA Stores, Independent Wine Stores, Brewery Stores, and Commercial and Land Based Wine Stores

⁵ Licensee Retail Stores

included an article on the new program in its spring 2011 edition of *The Publican* newsletter.

The purpose of these communications efforts was to remind liquor retail outlets of their responsibility to refuse service to minors, to highlight the importance of this requirement as a significant public safety issue and focus of branch enforcement activity, and to encourage voluntary compliance.

Risks Associated with Youths Accessing Liquor

The 2004 Canadian Addictions Survey⁶ revealed that 91% of youth aged 15 years and older have consumed alcohol at some point. Alcohol is clearly part of the youth and young adult culture.

While the fact of liquor consumption by youth, and especially by minors is troubling, even more worrisome are the patterns of consumption exhibited by youth. The Centre for Addiction and Mental Health's low-risk drinking guidelines specify no more than two drinks per day with a maximum of 14 drinks per week for men and nine for women. However, the Canadian Addictions Survey revealed that more than 90% of 15-24 year old males and 85% of similarly aged females exceed these low-risk drinking guidelines. Forty percent of those 12 and older reported occasionally binge drinking, which is defined as consumption of more than five standard drinks on a single occasion for males or more than four drinks for females.

The Canadian Addiction Survey also points out that binge drinking on a monthly or more frequent basis is one of the strongest predictors of alcohol-related harm. Binge drinkers are almost twice as likely to experience harm as those who never engage in heavy drinking. There is considerable overlap in the research between binge drinking among youth and other at-risk behaviours, such as youth violence and delinquency. The age at which young people start consuming liquor is also known to be a strong predictor of risk for a number of health and social problems, such as violence, sexual assault, unwanted pregnancy, crime, traffic accidents, and the inter-generational effects of drinking during pregnancy (Fetal Alcohol Syndrome Disorder). There is also a correlation between heavy alcohol use and mental health conditions (e.g. depression, anxiety), and serious negative effects on work, study, and relationships, especially within the family.

Approaches that limit the availability of liquor have been shown repeatedly to be some of the most effective ways to manage alcohol-related harm. Easy access to liquor has been linked to increased overall consumption, which in turn linked to risky use and increased alcohol-related health and social problems⁷. The BC Provincial Health Officer reports that per capita alcohol consumption in BC increased in nine of the ten years between 1996 and 2006 based on Statistics Canada data.

⁶ Adlaf, E.M., Begin, P., & Sawka, E. (Eds.). (2005). *Canadian Addiction Survey (CAS): A national survey of Canadians' use of alcohol and other drugs: Prevalence of use and related harms: Detailed report*. Ottawa: Canadian Centre on Substance Abuse.

⁷ Peter Anderson and Ben Baumberg, (2006) *Alcohol in Europe: A Public Health Perspective. A report for the European Commission*. Institute of Alcohol Studies, UK.

Beginning in 2002, consumption increased more quickly in BC than for the rest of Canada. This diverging trend has created a 0.5 litre per capita gap between average consumption in BC and average consumption for all of Canada in 2008⁸.

The branch is responsible for mitigating the harms associated with the sale and service of liquor in and around licensed establishments. The harm associated with the availability of liquor to minors is troubling. Using minors as agents to test compliance will not completely prevent youths from accessing liquor, however a robust compliance effort coupled with meaningful enforcement will significantly limit access and promote compliance.

Education and a certainty of apprehension are two highly influential factors in obtaining compliance. Awareness of the MAP and the potential for a considerable penalty is intended to significantly improve compliance with age-based liquor restrictions. This program will also contribute to an overall social and business culture of intolerance toward access to liquor by minors.

MAP Inspection Policies and Procedures

LCLB operates MAP as one component of its compliance and enforcement activities. The Compliance and Enforcement Division, with a staff of 35 liquor inspectors province-wide, regulates the operation of over 10,000 permanent licensed establishments and appointment stores and about 25,000 special occasion licensed (SOL) events annually.

The MAP is designed to evolve in measured and informed increments. It is the first program of its kind in the country. As such, and given the primary safety considerations of the minor agents involved, the branch has proceeded with caution. In this context, the program began in May 2010, in the urban centres of Vancouver Island and the Lower Mainland, where the greatest number of retail outlets are concentrated. All types of liquor retail outlets in those geographical areas were visited.

A primary consideration during the development, training and launch of the MAP was the safety of the minor agents. The parents of all minor agents hired for the program were required to provide their consent and were fully informed throughout, and the training included orientation in WorkSafe BC safety standards. The agents also received training in making and documenting observations, and were specifically instructed not to change their normal appearance or attire, to respond truthfully to any staff inquiries, and not to provide false identification.

The minors used for the project were selected through police and staff contacts, schools with law enforcement programs or previous participation in the age-based tobacco enforcement program. Minor agents are paid while being trained, for travel time and while conducting inspections.

⁸ British Columbia. Office of the Provincial Health Officer. Public health approach to alcohol policy: an updated report from the Provincial Health Officer, December 2008.

Minor agents are accompanied by two liquor inspectors. At the beginning of each inspection shift, the minor agent is photographed and their identification is documented by the inspectors. Prior to commencing an individual inspection, the inspectors assess the store for risk. Once the store has been deemed safe, the minor enters under close observation by the inspectors, selects a product, and attempts a purchase. Store logistics dictate the proximity of the inspector, however the inspector stays as close to the minor agent as possible at all times. Where a minor agent is asked for identification they state they can go and get it. The minor does not in any manner attempt to convince a clerk to make the sale.

Once back in the vehicle, if the purchase attempt has been successful, the minor turns over any purchased liquor and receipt to the liquor inspector for proper retention and documentation. The minor immediately fills out an observation report and the liquor inspector also documents the purchase.

In the majority of cases where the minor was able to buy liquor, the stores' staff did not request identification. In some cases, inspectors have reported that the clerk claimed to know the minor, and therefore identification wasn't necessary,⁹ or the clerk told the minor "not to worry about it". Of significant concern are those cases where sales staff have sold liquor to the minor agent despite acknowledging their obvious youth.

MAP Enforcement Action

If the minor is able to buy liquor the store is issued a contravention notice (CN) for the alleged contravention, usually within a few hours of the sale. After the store receives the CN, the branch then issues a notice of enforcement action (NOEA) outlining the particulars of the branch's allegations and setting out the proposed penalty.

The store has the option to:

- Admit the contravention occurred and accept the proposed penalty; or
- Admit the contravention occurred but dispute the proposed penalty; or
- Dispute that the contravention occurred.

If the store disputes the matter in any way, a delegate of the general manager (an adjudicator) will conduct an enforcement hearing. LCLB oral hearings generally take place in the same community where the retail outlet is located. However, they can also take place by way of written submissions or teleconference call. The hearing decision is issued in writing. If the store is dissatisfied with the decision, they may petition for a judicial review by the BC Supreme Court.

⁹ Minors do not enter retail outlets where there is a possibility that they are known, rather they work outside the area in which they live and or attend school.

At any time after receipt of the NOEA, the store may waive their opportunity for a hearing by admitting the contravention occurred and accepting the proposed penalty.

MAP Results

The following table summarizes MAP inspection results since the launch of the program.

MAP Compliance Statistics¹⁰
May 1-October 31, 2011
Results by Store Type

	GLS	LRS	RAS	Other
Total Inspections	57	175	4	1
Sales to a minor	1	32	0	0
Non-compliance rate	2%	18 %	0	0
Compliance Rate	98 %	82 %	Not yet available	Not yet available

There are 1383 liquor retail outlets in the province¹¹. To date, the branch has tested approximately 25 % of all Licensee Retail Stores (LRS) and 26 % of all Government Liquor Stores (GLS).

Preliminary MAP results for both government liquor stores and licensee retail stores are encouraging, indicating that the initial phase of the new program has been very successful in preventing the sale of liquor to minors.

While the MAP shares elements in common with previous, similar programs (CCP), there are also significant differences. While CCPs focussed on the requirement to check identification for the purposes of purchasing liquor, the use of minor agents in the MAP has allowed the branch to focus on the more critical public safety issue, which is the actual sale of liquor to a minor. For these reasons it is difficult to draw comparisons between the two programs, particularly with respect to compliance rates.

Very few Rural Agency Stores (RAS) and other types of liquor retail appointment stores have been tested to date since there were very few of these types of stores

¹⁰ All percentages have been rounded to the nearest 1%.

¹¹ 2010/11 Liquor Distribution Branch Annual Report: 197 government liquor stores, 672 licensee retail stores, 223 rural agency stores, 233 on-site manufacturer stores, 35 off-site manufacturer stores, 12 private wine stores, and 11 duty free stores.

in the test areas. An insufficient number of these types of stores have been inspected at this point in time for any conclusions to be reached. Once the program expands into more rural areas, the number of RAS outlets tested is expected to increase. In addition, some types of outlets pose inspection challenges due to restricted opening hours and limited stock. LCLB will continue to test as many liquor retail outlets as possible in the province while focussing on those establishments identified as high risk as the MAP becomes an integral tool in the compliance and enforcement program.

For a first contravention of selling liquor to a minor, the Liquor Control and Licensing Regulation penalty schedule sets out a monetary penalty of between \$7500 to \$10,000 and or a 10 – 15 day suspension. If a second contravention should occur¹², the penalty schedule provides for a 20-30 day suspension.

For the purposes of the MAP roll out the LCLB will generally recommend the minimum monetary penalty of \$7500 unless the outlet has a compliance history of similar activities or the facts of the individual case warrant a different penalty. Some critics of monetary penalties argue that some businesses see a monetary penalty as merely being the cost of doing business. Critics of suspensions say it unfairly impacts the liquor retail outlet's staff. The purpose of any penalty is to promote future compliance. The regulatory scheme places ultimate responsibility on the business. It is the business that is responsible for selling the liquor to a minor and it is the business that is responsible for the consequences of violating the Act.

To date, all recommended penalties have been the minimum \$7500 monetary penalty.

A summary of MAP enforcement activity as of October 31st, 2011 is as follows:

Contravention Notices issued	33
NOEAs issued.....	29
Waivers signed.....	16
Hearing Decision Issued.....	1
NOEAs withdrawn	1
Next steps pending.....	12

All enforcement hearing decisions, waiver summaries, and a monthly *Compliance and Enforcement Summary Report* are available to the public on the Branch's website.

Next Steps

Given the initial success of the MAP, LCLB is currently in the process of expanding MAP to other areas of the province and also intends to eventually use MAP

¹² The Penalty Schedule under the Liquor Control and Licensing Regulation defines a second contravention as the same contravention occurring within one year of the previous contravention.

inspections to monitor compliance in other types of licensed establishments such as, restaurants, bars, delivery services and special occasion licensed (SOL) events. This expansion will occur concurrently with a communications strategy that advises liquor outlets that the MAP is being directed towards them.

Conclusions

Restricting access to liquor by minors is a key public safety priority for the LCLB. The LCLB believes that awareness of the MAP inspections, coupled with a strong likelihood of apprehension and significant penalties is an effective strategy in preventing the sale of liquor to minors.

Initial MAP inspection data indicates that the program is having a significant and positive impact on voluntary compliance. We are satisfied with the results of the program to date.

Industry groups and LCLB have worked together to provide free tools such as signage and education for liquor retail stores and their staff. All retail stores have been individually notified of the MAP and the LCLB is confident that licensees/appointees are aware of the MAP inspections and their obligation to ensure they and their employees do not sell to minors. Requesting and assessing identification is a simple and brief process. Therefore, a failure to comply with the law regarding the sale of liquor to minors cannot reasonably be attributed to a lack of knowledge.

Instead, LCLB must conclude that liquor sales to minors are the result of a lack of adequate training and supervision of liquor retail store staff or are motivated by a desire for profit at the expense of public safety. Those stores which have sold to a minor have now been identified as high risk for future non-compliance and they will be tested again.

LCLB expects that as the program continues, it will have a further positive impact on preventing liquor sales to minors. We will continue to monitor the success of the program and report out on the results.