

**TOBACCO, ALTERNATIVE NICOTINE
& VAPOR PRODUCT**

ENFORCEMENT HANDBOOK

FY24

IOWA STATE PATROL



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FY 2024



Thank you for taking the I-pledge and partnering with the Iowa Department of Revenue (IDR) to help keep tobacco, alternative nicotine and vapor products out of the hands of underage persons in Iowa. 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 DEPARTMENT OF REVENUE 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 underage persons in [COMMUNITY].

Known as I-pledge, the program is a partnership with the Iowa Department of Revenue (IDR) 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 \$135 fine for a first offense, a \$325 fine for a second offense and a \$645 fine for third and subsequent offenses. However, handing out citations is not the intent of the I-pledge program.

“By partnering with the Iowa Department of Revenue, 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 underage persons in Iowa.”

To take the I-pledge training or search certification records go to <https://abd.iowa.gov/>.

##

II. Trooper Checklist

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- 1. **Issue a press release** indicating your district is partnering with the Iowa Department Revenue to conduct compliance checks. A suggested press release is included on page 2 of this handbook and can be downloaded at <https://abd.iowa.gov/>.
 - ▶ Please do not provide retailers with advance notification of compliance checks.

- 2. **Complete and submit compliance checks** on or before **April 15, 2024.**
 - ▶ Use only Fiscal Year 2024 Tobacco, Alternative Nicotine and Vapor Product Enforcement Program forms included in this handbook, or download current forms at <https://abd.iowa.gov/>.

- 3. **Immediately issue a criminal citation** to non-compliant clerks. Your agency should notify the city or county attorney within 72 hours for criminal proceedings. Your agency should also notify the business owner or manager of the tobacco/alternative nicotine/vapor product violation within seven (7) business days.
 - ▶ Do not obtain the name of the clerk for compliance checks resulting in compliance. IDR does not need this information and the clerk may notify other retailers in the area that compliance checks are being conducted.

- 4. **Complete and submit a second compliance check on violators only** by **May 30, 2024.**

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 IDR:

- ▶ **Establishment tells underage purchaser 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 underage purchaser 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 IDR’s list no longer holds a valid permit prior to attempting to conduct a compliance check at the establishment, contact IDR using the contact information on page 13.
- ▶ **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 IDR using the contact information on page 13.
- ▶ **Underage Purchaser is denied entry:** Submit the compliance check as “compliant.” These establishments are typically “members only” or the underage person is stopped at the door due to age.
- ▶ **Establishment is unsafe or inappropriate:** Establishments that are unsafe or inappropriate for a underage purchaser to enter can be considered an “unsatisfactory condition.” However, to formally designate the establishment as an “unsatisfactory condition,” the trooper must contact IDR prior to conducting the compliance check for confirmation. The trooper 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.

IV. Website, User ID and Password FY 2024



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 IDR online. Please follow the steps below to enter compliance check reports online.

1. Access the site by visiting <https://abd.iowa.gov/>;
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 “Patrol” 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 patrol1 (no space).

PASSWORD:

You will use the same password that you used during FY2023.

- Your password is case sensitive, meaning capital and small letters must be in appropriate places.
- **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, contact IDR using the contact information included on page 13.

REIMBURSEMENT BREAKDOWN	
ITEM	COST
Mileage	.50/mile
Patrol Salaries	
Officer Buyback	Going Rate
Secretary Buyback (data entry)	Going Rate
Confidential Informant Overhead (DPS-DNE invoices IDR)	
Wages	\$10.00/hour (3 hours min.)
Meals	\$15.00
Tobacco/ Alternative Nicotine/ Vapor Products	Going Rate
Mileage	\$10.00 flat fee (if applicable)

V. Submitting Compliance Check Results

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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 arrows next to the column heading. There is also a search feature below each 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.

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. **It is imperative to enter compliance check reports accurately and in a timely manner.** Please contact IDR if an error is made when entering a compliance check report. The contact information for IDR can be found on page 13.

Notifications to Retailers:

After receiving the compliance report, IDR will send a notification of compliance to retailers who do not sell tobacco, alternative nicotine or vapor products to underage persons and a notification of non-compliance to those who do sell. The notifications will be sent to retailers monthly. **It is imperative to enter compliance check reports accurately and in a timely manner.** Please contact IDR if an error is made when entering a compliance check report. The contact information for IDR can be found on page 13.

Questions or Problems?

If you have problems submitting a report or have questions regarding the website, contact IDR using the contact information on page 13.

VI. Compliance Check Procedures

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IDR 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 an underage purchaser to assist with the controlled-buy operation (compliance check).

▶ ***Underage Purchasers shall be 16, 17, 18, 19 or 20 years of age. Underage purchasers younger than the age of 16 shall not be used to conduct tobacco, alternative nicotine and vapor product compliance checks.***

- ▶ All underage purchasers should be of good character.
- ▶ Underage purchasers should have the appearance, demeanor, mannerisms and appropriate dress for their age group. Underage purchasers should refrain from wearing high school or college logos while conducting compliance checks.
- ▶ All underage purchasers shall complete an Underage Purchaser Consent Form prior to the scheduled compliance check date. The form does not have to be signed by parent/guardian if the underage purchaser is 18 years of age or older. If the underage purchaser is younger than 18 years old, have the parent/guardian sign the consent form and provide a copy of the signed consent form to the parent/guardian.

In order to maintain the integrity of the program, the trooper conducting compliance checks should wear plain clothes and utilize an unmarked vehicle whenever possible.

The trooper should review the list of retail establishments and determine what tobacco/alternative nicotine/vapor products each retailer sells. Payment cannot be made and the district will be asked to repeat the compliance check if the underage purchaser asks for a product not sold by the retailer.

The citing law enforcement official 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 IDR as to the disposition of criminal citations.

A Briefing Shall be Held Prior to Conducting Checks

- ▶ **Appearance:** The trooper should approve the underage purchaser's appearance and a photo should be taken of the underage purchaser before each day of compliance checks. The underage purchaser's appearance should not be changed after that point.
- ▶ **Official Identification:** The trooper should verify the underage purchaser 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 underage purchaser's ID.
- ▶ **Possessions:** The underage purchaser should only have buy money provided by the district in his/her possession; no other money should be on his/her person. Check the underage purchaser and his/her possessions to ensure there are no tobacco, alternative nicotine or vapor products in his/her possession prior to the compliance check.
- ▶ **Instructions:** The underage purchaser 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 underage purchaser try to persuade the licensee/clerk to complete the sale;
 - » If asked about age, the underage purchaser should truthfully respond with how old he/she is;
 - » If asked for ID, the underage purchaser should present his/her ID to the licensee/clerk;
 - » If the licensee/clerk takes a underage purchaser's ID, tell the underage purchaser not to argue but to leave the store and the trooper will obtain the underage purchaser'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.



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 underage purchaser.
- ▶ **Bars/Restaurants:** The underage purchaser 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 underage purchaser and observe the purchase attempt from a discreet location. The trooper should not appear to be accompanying the underage purchaser. Most bars/restaurants typically sell traditional tobacco products versus alternative nicotine and vapor products. An establishment where an employee checks the underage purchaser's ID at the door and denies the underage purchaser access to the premises shall be considered to be compliant.

Unsatisfactory Condition

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

However, to formally designate the establishment as an "unsatisfactory condition," the trooper must contact ABD prior to conducting the compliance check for confirmation. Once the establishment has been formally designated as an "unsatisfactory condition," the trooper 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 payment will not be sent to law enforcement agencies that neglect to conduct a "walk-through" of "unsatisfactory condition" establishments. In the event that ABD feels the check can safely be conducted, the department will be asked to complete the check.

Vending Machines

A vending machine which is accessible to a person under age 21 is in violation of Iowa Code section 453A.36(6). If an establishment has a vending machine, the underage purchaser should be instructed to approach the retailer and specifically ask for change for the vending machine. If change is given, the underage purchaser 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 underage purchaser, a violation of Iowa Code section 453A.2(1). A citation must be issued before your district may receive payment. Selling a tobacco, alternative nicotine or vapor product to is a scheduled violation, resulting in scheduled fines as follows:

- ▶ 1st Offense: \$135.00 plus surcharge and court costs
- ▶ 2nd Offense: \$325.00 plus surcharge and court costs
- ▶ 3rd Offense: \$645.00 plus surcharge and court costs

Reporting

The district shall enter the compliance check results into the I-pledge Tobacco, Alternative Nicotine and Vapor Product Enforcement Program accessible at <https://abd.iowa.gov/>. For further instruction on this procedure refer to pages 5 and 6. **It is imperative to enter compliance check reports accurately and in a timely manner.** Please contact IDR if an error is made when entering a compliance check report. The contact information for IDR can be found on page 13.

Additional Information

For further information on tobacco, alternative nicotine and vapor product laws refer to Iowa Code Chapter 453A. The Iowa Code can be viewed at www.legis.iowa.gov/.



VII. Underage Purchaser Consent Form FY 2024

Underage Purchaser's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Home Phone Number: _____ Date of Birth: _____

Social Security Number: _____ Gender: _____

Underage Purchaser'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/ guardian (if under age 18) 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.

Underage Purchaser 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** _____

Note: Parent/Guardian signature is not required if underage purchaser is over the age of 18 years old.



VIII. Compliance Check Form FY 2024

Retailer: _____ Address: _____

City: _____ State: _____ ZIP: _____

RESULTS (check one): <input type="checkbox"/> Compliant Date Checked: _____ <input type="checkbox"/> Non-Compliant Time Checked: _____ <input type="checkbox"/> Unable to Complete (Not Applicable) Clerk Information: <input type="checkbox"/> Male <input type="checkbox"/> Female (NAME ONLY REQUIRED IF NON-COMPLIANT): First Name: _____ Middle Initial: _____ Last Name: _____ Case #: _____ <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 twenty-one. <i>Iowa Code § 453A.2(1).</i>	If Unable to Complete the Compliance Check (check one) <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 <input type="checkbox"/> Establishment No Longer Holds a Valid Tobacco, Alternative Nicotine or Vapor Product Permit <input type="checkbox"/> Establishment is Out of Business <input type="checkbox"/> Establishment is designated as an “Unsatisfactory Condition” - “Unsatisfactory Condition” verified by IDR Investigator - Trooper Conducted a Walk-Through of the Premises (<i>Explanation Required in Comments Section Below</i>) <input type="checkbox"/> If none of the above reasons apply, write reason and explanation on the back of the form—see page 4 for reason list.
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(NOTE: If the compliance check result is Non-Compliant, a citation must be issued before your department 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 18 19 20

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

CI Race: Black American Indian/ Alaskan Native Asian/ Pacific Islander White Unknown

CI Ethnicity: Not of Hispanic Origin Hispanic Origin Unknown

RESULTS OF ATTEMPTED PURCHASE:

Attempted Purchase Item: Cigarettes Smokeless Tobacco Other Tobacco Product

Vapor Product Alternative Nicotine Product

Age Requested? YES NO

ID Requested? YES NO

COMMENTS:

Trooper Signature

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 minor is instructed to attempt to purchase a product the retailer carries. Payment cannot be made and the district will be asked to repeat the compliance check if the minor asks for a product not carried by the retailer.



Where can I learn more about vapor products sold by Iowa retailers?

Two training videos were created to educate law enforcement officers and underage purchasers in conducting compliance checks at vape shops and requesting vapor products at any retail establishment that sells vapor products. These training videos can be accessed by logging into the I-pledge Tobacco, Alternative Nicotine and Vapor Product Enforcement Program Website. Follow the log in instructions on page 5, then select Training Videos on the main menu.

It is important to note, these videos are for training purposes only and should not be shared with others outside of the compliance check inspection team. This includes not sharing these videos on social media or posting the videos on a platform the public has access to.

X. IDR Contact Information

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If you have a question or need assistance with the Tobacco Enforcement Program, contact IDR using the contact information below.

Jessica Ekman
Tobacco Program Coordinator
515.281.7434
iapledge@iowaabd.com

Kelly Dawson
Investigator / Backup Program Coordinator
515-336-5991
iapledge@iowaabd.com

Iowa Department of Revenue
Alcoholic Beverages Division
1918 SE Hulsizer Road
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